

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

Vermont Local Bankruptcy Rules



October 17, 2001

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

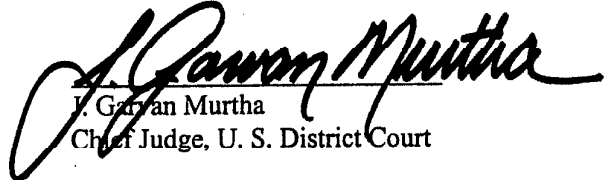
In re:

THE VERMONT LOCAL
BANKRUPTCY RULES

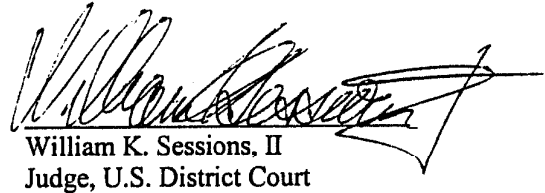
APPROVAL OF LOCAL RULES

Pursuant to Rule 9029(a)(1) of the Federal Rules of Bankruptcy Procedure the attached local rules captioned as Local Rules of Practice and Procedure in Bankruptcy Court, District of Vermont are hereby approved. They are effective as of this date and may be implemented immediately.


~~October~~
~~September~~ 4, 2001
Brattleboro, Vermont


J. Garvan Murtha
Chief Judge, U. S. District Court

~~Oct~~
September 10, 2001
Burlington, Vermont


William K. Sessions, II
Judge, U.S. District Court

~~October~~
September 4, 2001
Rutland, Vermont


Colleen A. Brown
U.S. Bankruptcy Judge

For further procedural information, the Clerk's Office may be contacted at

Clerk, U.S. Bankruptcy Court
District of Vermont
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Rutland, VT 05702-6648
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These Vermont Local Bankruptcy Rules and other additional information are also available from the Court's website:
<http://www.vtb.uscourts.gov>.

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INTRODUCTION

These local rules represent the culmination of a collaborative effort by the Court, the Clerk's Office, members of the Bankruptcy Committee of the Vermont Bar Association, the Office of the U.S. Trustee for the District of Vermont and other attorneys who practice in this Court. They reflect an effort to preserve the procedures that have worked well in the past while incorporating new practices brought by a new judge, changes in the federal rules, and suggestions from local attorneys. The clarity and effectiveness of these rules is due to the care, hard work and commitment to excellence demonstrated by all those who participated in the drafting.

Some significant changes in the rules warrant explanation. First, the numbering system of these rules is new and is being utilized at the suggestion of the Judicial Conference of the United States. The local rules are now numbered to correspond directly to the numbering of the applicable federal rules. For those accustomed to the prior numbering system, it may take a little time to become acquainted with the new approach, but we think it will prove to be very useful for several reasons. This numbering system is national and therefore it will make it easier for attorneys from outside the District to find information in our local rules, and will likewise make Vermont attorneys better able to navigate the rules of other federal courts, once they become accustomed to working with the organization of these rules.

Second, in an effort to make the practice consistent in all of the federal courts of this District, these rules reflect changes instituted to make the practice and procedure requirements in this Court almost identical to those of the U.S. District Court for the District of Vermont. However, in recognition of the different types of litigation brought in the two courts and the sometimes differing time constraints present, there are some important distinctions between the two sets of local rules. Most notable of these distinctions are (1) the time for filing summary judgment opposition memoranda of law is 21 days in Vt. LBR 7056-1(a)(2) (as compared to 30 days in Rule 7.1(c)(2) of the DC) and (2) the maximum length for memoranda of law, without leave of court, is shorter in the Bankruptcy Court (compare Vt. LBR 9013-2(a) to DC LR 7.1).

Lastly, we want to emphasize that the purpose of these rules is to communicate clearly the requirements for practicing in the Bankruptcy Court of the District of Vermont and to ensure that everyone who wishes to practice in this Court has access to this information. These rules are available electronically on the Court's website and on paper from the Clerk's Office.

These rules will need to be changed as the nature of the caseload in the Court evolves, as the procedures used by the Clerk's Office to handle cases progresses, and as Congress continues to modify the statute. We encourage and welcome suggestions from court users about how we can improve both these rules and our delivery of service to the public.

PART I

Vt. LBR 1002-1. PETITION - GENERAL

- (a) **Number of Copies; Bringing Original to § 341 Meeting.** An original and three (3) copies of all petitions filed under chapters 7, 12, and 13 of the Bankruptcy Code, and an original and six (6) copies of all petitions filed under chapters 9 and 11 of the Bankruptcy Code shall be filed with the Clerk of the Bankruptcy Court (“the Clerk”). Only an original of the master mailing list is required. The original petition, statement and schedules should not be bound or stapled but rather should be held together with a paper clip or rubber band; each copy should be stapled. Mailing lists shall not be bound to the individual petition packages but rather shall be attached by paper clip or rubber band and placed at the end of the original petition, schedules and statements. In cases where the case was commenced electronically, the debtor or the debtor’s attorney shall bring the original, executed petition, schedules and statements to the meeting of creditors held pursuant to 11U.S.C. § 341 (hereafter “§341 meeting”).
- (b) **Fax Filings.** The Clerk's Office shall not accept facsimile filings directly to its fax machine to commence a case except in an emergency. [See also Vt. LBR 5005-4(b).] In the case of an emergency, the filing fee will be accepted via a credit card if the credit card authorization is specified on a separate page. The case shall be deemed commenced as of the date and time of filing as stamped by the Clerk on the facsimile copy prior to implementation of the Electronic Case Filing System and shall be deemed filed upon entry into electronic format after implementation of the Electronic Case Filing System.
- (c) **Electronic Filings.** A petition commencing a case under the Bankruptcy Code may be filed by electronic means established to implement the Electronic Case Filing System, in accordance with the requirements set forth in these rules and in subsequently entered Orders of the Court. In lieu of transmitting an original and copies of the petition, schedules and statements, a Declaration Regarding Electronic Filing (“declaration REF”) signed under penalty of perjury with the original signature of the debtor, in accordance with Vt. LBR 5003-1(b), shall be filed within three (3) business days of the commencement of a case electronically. A copy of the Notice of Electronic Filing which includes the electronic document stamp shall be attached to the Declaration REF (see attached appendix).
- (d) **Payment by Debtors.** Debtors may not pay the petition filing fee with their own checks or with a credit card. [See also Vt. LBR 5081-1(a).]
- (e) **Corporate Resolution/LLC Authority.** A voluntary petition filed by a corporation shall be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing. A voluntary petition filed by a limited liability company shall be accompanied by a copy of the appropriate authorization, duly attested to, authorizing such filing.

Vt. LBR 1004-1. PETITION - PARTNERSHIP

Reserved

Vt. LBR 1005-1. PETITION - CAPTION

The caption in the petition, including other names used, must be complete and accurate. All documents filed in the case must contain a caption identical to the caption set forth on the petition. A case filed by an individual debtor shall not show any corporate names in the case caption unless the relationship between the debtor and the corporation is clearly articulated in the caption.

Vt. LBR 1006-1. FEES - INSTALLMENT PAYMENTS

Installment payments may be made only by means of cash, money order or bank draft.

Vt. LBR 1007-1. LISTS, SCHEDULES, & STATEMENTS; TIME LIMITS**(a) Schedules of Assets in All Chapters.**

- (1) **All Assets to Be Disclosed.** The debtor must list all assets in which the debtor has any interest, regardless of where the asset is located, the nature of the debtor's interest or whether the debtor believes the asset to be within the definition of property of the estate; and must be described with sufficient specificity to allow for easy identification of the assets.
- (2) **Business Inventory or Equipment.** When a stock of goods or business equipment is scheduled, the debtor shall provide an addendum to Schedule B which includes, at a minimum, a general description, a list of present items, a brief explanation of the exact location of the item(s), the name and address of the custodian, the protection being given such property, and the amount and duration of fire and theft insurance, if any.

(b) Schedules of Debts in All Chapters. All schedules of debts filed in conjunction with a petition shall be complete and include the date and nature of the consideration for each debt as required by the official forms. All debts shall be listed even if the debtor does not expect all creditors to file proofs of claim.**(c) Debtor's Affidavit to be Filed in Chapter 11 Cases.** A debtor in a chapter 11 case shall file an affidavit setting forth:

- (1) in the instance of a case originally filed under chapter 7, 12, or 13 and subsequently converted to a case under chapter 11, the name and address of any trustee appointed in the case commenced under chapter 7, 12, or 13;
- (2) the names and addresses of the members of any committee organized prior to the order for relief in the chapter 11 case, and any attorney for such committee, and a brief description of the circumstances surrounding the formation of any committee and the date of its formation;
- (3) the nature of the debtor's business and a concise statement of the circumstances leading to the debtor's chapter 11 filing;

- (4) the number of classes of shares of stock, debentures, or other securities of the debtor that are publicly held, and the number of holders of those interests, listing separately those held by the debtor's officers and directors and the amounts so held;
 - (5) a list of all property of the debtor in the possession or custody of a custodian, public officer, mortgagee, pledgee, assignee of rents, receiver, or secured creditor or the agent of any of these entities, giving the name, address, and telephone number of each and the court, if any, in which a related proceeding is pending;
 - (6) the nature and present status of each action or proceeding pending or threatened against the debtor or its property, including the court and identifying number, and opposing counsel's names, addresses and telephone numbers, except for cases qualifying under 11 U.S.C. § 524(g); and
 - (7) a list of the real estate owned, under lease, or held under other arrangements.
- (d) **Additional Information Required if a Business Continues Operating.** If the chapter 11 debtor is continuing the operation of a business, the affidavit required under (c) above shall state that and set forth:
- (1) the estimated amount of weekly, bi-weekly, or monthly payroll and reimbursed expenses to employees, officers, and partners or other related individuals for the 30-day period following the filing of the chapter 11 petition;
 - (2) an estimated cash receipts and disbursements schedule covering the debtor's business for 90 days following filing, in 30-day increments; and
 - (3) proof of insurance.
- (e) **When to File Additional Business Information.** In a voluntary chapter 11 case, the debtor's affidavit referred to in (c) above shall accompany the petition. In an involuntary chapter 11 case, the affidavit shall be filed within 15 days after the entry of the order for relief.
- (f) **Waiver of Requirements.** On application of the debtor, and on notice to the Office of the U.S. Trustee with ten (10) days to object, showing that it is impracticable or impossible to furnish any of the foregoing information, the Court may dispense with any of the foregoing requirements.

Vt. LBR 1007-2. MAILING LIST

- (a) **Master Mailing List.** The master mailing list shall include all creditors, as well as any federal agencies and officers, and state agencies and officers required to receive notice.

The Clerk maintains a list of the names and addresses of federal entities voluntarily submitted by the entities. This list of addresses may be amended from time to time by the Clerk's Office and is available on the Court's website at <http://www.vtb.uscourts.gov> and at the public counter at the Court.

- (1) Every mailing list shall include the following:

US Trustee
74 Chapel St, Ste 200
Albany NY 12207-2190

- (2) The mailing list must include the United States in the following format under the following circumstances:

- (A) in all Chapter 11 and Chapter 9 cases and, in filings under Chapters 7, 12 and 13 if a tax debt or potential tax claim or interest exists, the following address of the Internal Revenue Service must be included:

Internal Revenue Service
Insolvency Group - Stop 20800
25 New Sudbury St, JFK Federal Bldg
P.O. Box 9112
Boston, MA 02203-9112

- (B) When a debt, potential claim, or interest, other than taxes, exists regarding a federal department, agency or instrumentality, the mailing list must include both (i) the name and address of the federal department, agency or instrumentality and (ii) United States Attorney's Office, using the following address format:

[NAME OF FEDERAL AGENCY]
c/o United States Attorney
11 Elmwood Avenue - 3rd Floor
P.O. Box 570
Burlington, VT 05402-0570

- (C) This rule supplements, but does not replace, Fed. R. Bankr. P. 2002(j).

- (3) When a debt or potential claim or interest exists regarding the State of Vermont, the mailing list must include the following addresses:

- (A) for a tax debt or potential tax claim:

Vermont Department of Taxes
Bankruptcy Unit 3rd fl
109 State St PO Box 429
Montpelier, VT 05601-0429

- (B) when a debt, potential claim, or interest, other than taxes, exists regarding the State of Vermont, the Attorney General for the State of Vermont must be added using the following address format:

<<NAME OF STATE AGENCY>>
 c/o VT Attorney General
 109 State St
 Montpelier VT 05609-1001

- (4) Do NOT include the name and address of the following persons on the mailing list: the debtor, a joint debtor, or the attorney for the debtor.
- (b) **Additional Mailing List in Cases Filed Under Chapter 9 or 11.** To ensure prompt noticing of the Creditors' Committee Organizational Meeting in chapter 9 and chapter 11 cases, the debtor shall attach to the list of 20 largest unsecured creditors, excluding insiders, a separate mailing list containing the names and complete mailing addresses and fax numbers for each creditor listed. The same procedure will be followed whenever a committee of equity security holders is to be organized.
- (c) **Formatting Generally.** Mailing list submissions must comply with the following guidelines:
- (1) lists must be typed using one of the following typefaces: Courier, Times New Roman, Arial, or CG Times, with a font size of no less than 12;
 - (2) lists must be typed on plain 8½" x 11" paper in a single column on each page, with margins no less than 3/4";
 - (3) uppercase (capital) and lowercase letters must be used;
 - (4) each name / address block must consist of no more than five (5) lines. The first line must contain the creditor / governmental agency name. Use the remaining lines for the address. At least one blank line must separate each name / address block.
 - (5) no line may exceed 40 characters in length;
 - (6) nine-digit zip codes must be typed with a hyphen between the fifth and sixth digits;
 - (7) attention lines or account numbers must not be typed on the last line, but may be included on the second line of the name and address block, if needed; and
 - (8) mailing lists must not be stapled.
- (d) **Submission of Mailing Lists for Cases Filed Electronically.** For cases filed electronically, the Master Mailing List used to upload creditor information into the Electronic Case Filing System must:
- (1) comply with the requirements of Vt. LBR 1007-2 and;
 - (2) be submitted to the Electronic Case Filing System as a text file (*.txt) in ASCII format.

Vt. LBR 1007-3. STATEMENT OF INTENTION

Reserved

Vt. LBR 1009-1. AMENDMENTS TO LISTS AND SCHEDULES

- (a) **Amendments Generally.** All amendments must include the case name (as set forth on the petition), case number and chapter. The party filing the amendment shall contemporaneously serve the amendment on the Office of the U.S. Trustee and the case trustee, if any, as well as on any other party entitled to notice.
- (b) **Interlineation.** No amendment by interlineation shall be permitted. The entire page or pages that the amendment affects shall be redrafted with the amendment redlined, underlined, or boxed in, and in such manner that the amended page(s) will be complete without referring to the page or pages that have been amended.
- (c) **Notification of New Creditors.** The party making the amendment shall serve a copy of the "Notice of Chapter [7, 11, or 13] Bankruptcy Case, Meeting of Creditors, and Deadlines" and the amended list or schedule on any new creditor or party in interest added and on any party or creditor whose claim or address was directly affected by the amendment, and file a Certificate of Service with the Clerk.
- (d) **Mailing Lists.** If the debtor becomes aware of a changed address for any creditor or party in interest, or if it becomes necessary to add or delete a name and address from a mailing list, the debtor shall amend the mailing list following the procedure in this rule; the debtor may not make an amendment by correspondence. To add or change an address or name, the attorney for the debtor shall file with the Clerk a Notice of Amendment to a List setting forth only the new or changed name and address.
- (e) **Declarations.** A new Declaration REF must be filed with each amendment in the form set forth in Vt. LBR 5003-1(b).

Vt. LBR 1010-1. PETITION - INVOLUNTARY

Reserved

Vt. LBR 1014-1. TRANSFER OF CASES

Reserved

Vt. LBR 1014-2. VENUE - CHANGE OF

Reserved

Vt. LBR 1015-1. JOINT ADMINISTRATION / CONSOLIDATION

- (a) **Case Filed by Husband and Wife.** A husband and wife commencing a joint case may file a joint petition and pay one filing fee. Married debtors filing jointly shall file joint schedules and a joint statement of financial affairs. If an item on a schedule or statement requires a different response from each debtor, the responses shall be labeled (H) or (W) to designate husband and wife,

respectively. Each asset and liability listed on the schedules or statements of married debtors filing jointly will be considered as joint in nature, unless otherwise indicated.

In all cases filed by a husband and wife under 11 U.S.C. §302, the court will presume joint administration of the case and, in an asset case, the consolidation of the assets and liabilities, which shall be combined in a single pool to pay creditors unless and until a motion is made by a party in interest to terminate the consolidation. A motion to terminate consolidation shall be filed, (i) in a Chapter 7-asset case, no later than the date of the meeting/hearing scheduled by the Notice of Filing of Final Account of Trustee, and such motion may be heard separately or in conjunction with the approval of the final account; (ii) in a Chapter 12 or 13 case, no later than 60 days after the last date for filing a claim, provided that, any creditor who files a claim has 60 days after the claim is timely filed to move to terminate the consolidation, and (iii) in a Chapter 11 case, prior to the entry of an order confirming the plan, unless claims are permitted to be filed after confirmation, in which case, the motion shall be filed within the period specified for Chapter 12 or 13 cases. The motion shall be adjudicated as if a substantive consolidation order had been entered in the first instance. Termination of consolidations shall apply retroactively and post-petition acquisitions of the estate allocated accordingly, to the extent proceedings in the meantime have not rendered that impossible.

(b) **Joint Administration of Related Cases.** Unless otherwise ordered by the Court, motions for joint administration shall be presented in each of the subject cases, shall be served on all creditors and parties in interest, and shall designate one of the subject cases as the main case.

(1) **Clerk's Duties.** Upon the entry of an order of joint administration, the Clerk shall:

- (A) designate one of the cases to be the lead case for purposes of docketing and filing;
- (B) enter the order of joint administration simultaneously on the dockets of all cases covered by the order and file a copy of the order of joint administration in the case file of all cases covered by the order, except the lead case;
- (C) file the original of the order of joint administration in the case file of the lead case;
- (D) thereafter, maintain only the lead case file and docket for all activity affecting any of the jointly administered cases, except that the Clerk shall maintain a separate file for each petition (and amendments to the petition) and shall maintain a separate claims register for each case.

(2) **Mailing List.** The party who obtained the order of joint administration shall, within five (5) days of the entry of the order, file with the Clerk a consolidated mailing list constituting a total mailing list of all interested parties in all the jointly administered cases without duplication. The mailing list must be in compliance with the filing requirements otherwise set forth in these local rules.

(3) **Additional Copies.** The Clerk may require parties to file additional copies of documents in jointly administered cases.

(c) **Consolidation of Related Cases.**

- (1) **Motion.** Unless otherwise ordered by the Court, motions for consolidation shall be presented in each of the subject cases, shall be served on all creditors and parties in interest, and shall designate one of the subject cases as the main case.
- (2) **Mailing List.** Prior to the entry of an Order of Consolidation, the movant shall request copies from the Clerk of the mailing lists for each of the cases affected by the order. The movant shall submit a supplemental certified mailing list containing only those parties not already included on the mailing list from the main case without duplications or omissions. The mailing list must be in compliance with the filing requirements otherwise set forth in these local rules and shall be filed with a proposed order of consolidation no later than five (5) business days after entry of the order granting the motion to consolidate.
- (3) **Caption, Docket Entries, and Filing.** Prior to the entry of an order of consolidation, all papers shall be captioned by their individual titles. Once the cases have been ordered consolidated, they will be treated as one case for all purposes, with a single case number, caption, claims register, and docket.

Vt. LBR 1015-2. RELATED CASES*Reserved***Vt. LBR 1017-1. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS**

Dismissal of Related Title 11 Proceedings and Matters. Whenever a case filed under title 11 is dismissed, any related adversary proceeding, contested matter, or any other pending matter shall likewise be dismissed without prejudice and without further order of the Court, unless the Court orders otherwise. Cases with pending appeals may be dismissed, but the dismissal of the case shall not be deemed to deprive any appellate court of its jurisdiction. A party to an adversary proceeding that is deemed dismissed under this rule may have the proceeding reinstated upon a motion filed within 30 days of notice of entry of the order dismissing the underlying bankruptcy case, showing that dismissal of the case does not render the adversary proceeding moot.

Vt. LBR 1017-2. CONVERSION - REQUEST FOR / NOTICE OF

Conversion of a Chapter 11 Case to a Chapter 7 Case by Debtor. If a chapter 11 debtor seeks to convert to chapter 7, an *ex parte* motion must be:

- (1) filed affirming that the requirements of 11 U.S.C. § 1112(a) have been met, and
- (2) simultaneously served on the Office of the U.S. Trustee.

Vt. LBR 1019-1. CONVERSION - PROCEDURE FOLLOWING*Reserved*

Vt. LBR 1020-1. CHAPTER 11 SMALL BUSINESS CASES - GENERAL

[See Vt. LBR 3017-2]

Vt. LBR 1070-1. JURISDICTION*Reserved***Vt. LBR 1071-1. DIVISIONS - BANKRUPTCY COURT***Reserved***Vt. LBR 1072-1. PLACES OF HOLDING COURT**

The Court shall regularly convene hearings in Rutland, Vermont and shall also hold hearings in Burlington, Vermont at least once per month. Papers filed in connection with all hearings shall be filed with the Clerk in Rutland regardless of the location of the hearing. All hearing notices shall specify the location of the hearing.

Vt. LBR 1073-1. ASSIGNMENT OF CASES*Reserved***Vt. LBR 1074-1. CORPORATIONS***Reserved***PART II****Vt. LBR 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES**

- (a) **Duty to Provide Notice.** Unless otherwise directed in these rules, the Federal Rules of Bankruptcy Procedure, or the Bankruptcy Code, the Clerk is authorized to designate the parties who must provide the notice to creditors and parties in interest required under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these rules. Unless otherwise specified by the Court, the movant must give at least five (5) business days notice of any hearing. The movant determines the parties to be served and must file a Certificate of Service prior to the deadline for the filing of objections. Failure to timely and properly serve notice may result in dismissal of the motion or no action on the motion and may result in an Order directing the movant to pay costs if a party is prejudiced by the movant's failure to serve the motion properly, in a timely fashion.
- (b) **Chapter 13 Plans.** The Clerk shall give notice of the time fixed for objecting to the proposed plan and any amendment or modification to the plan.
- (c) **Mailing List.** When these rules require or permit notice to be given to creditors and other parties in interest by a party other than the Clerk, the Clerk shall provide the party with a mailing list, upon request.
- (d) **Method of Service.** Notices and documents required to be sent by a party, other than the Clerk, shall be served, at a minimum, by first class mail, postage prepaid, but may also be served by fax or e-mail under certain circumstances. [See VT. LBR 9013-3].

- (e) **Form of Service.** If a motion consists of several documents, the movant shall serve any party entitled to service of the full motion papers, the motion papers, the exhibits, and the notice of hearing in a single envelope.
- (f) **Content of Motion.** Motions shall state with particularity the relevant law by section and the relevant procedure by rule upon which the movant relies, shall specify all relief requested, and shall include a brief statement explaining why the relief should be granted. [See Vt. LBR 9013-2.]

Vt. LBR 2002-2. NOTICE TO UNITED STATES OR FEDERAL AGENCY

[See Vt. LBR 1007-2(a)(2).]

Vt. LBR 2002-3. UNITED STATES AS CREDITOR OR PARTY

Reserved

Vt. LBR 2003-1. MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

On motion by or on behalf of a debtor setting forth an adequate showing of exigent circumstances and including the written consent of the case trustee, the Court may excuse or otherwise waive a debtor's attendance at a duly noticed §341 meeting. A motion that includes the written consent of the case trustee may be granted without a hearing. The debtor or the debtor's attorney shall bring the original, executed petition, schedules and statements to the § 341 meeting.

Vt. LBR 2004-1. DEPOSITIONS & EXAMINATIONS

Reserved

Vt. LBR 2007-1. TRUSTEES & EXAMINERS (CH. 11)

Reserved

Vt. LBR 2010-1. TRUSTEES - BONDS / SURETY

Reserved

Vt. LBR 2014-1. EMPLOYMENT OF PROFESSIONALS

- (a) **Retention.** Whenever the case trustee or debtor-in-possession employs a professional whose employment requires court approval under the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, it is the duty of primary counsel for the employing party to ensure that such approval is properly sought and to advise the professional of the requirements and risks, if any, pertaining to the professional's ability to subsequently obtain compensation and reimbursement of expenses from the estate.
- (b) **Application.** The professional shall file an application for retention and the application for compensation on 15 days' notice to the Office of the U.S. Trustee. All applications for retention and compensation, whether made directly by the professional or on the professional's behalf, shall include the professional's name, complete mailing and street addresses, and telephone and fax numbers. The Court may schedule a hearing on the application in the event objections are filed or it deems a hearing to be necessary.

Vt. LBR 2015-1. TRUSTEES - GENERAL*Reserved***Vt. LBR 2015-2. DEBTOR-IN-POSSESSION DUTIES***Reserved***Vt. LBR 2015-3. TRUSTEES - REPORTS & DEPOSITIONS OF RECORDS***Reserved***Vt. LBR 2015-4. TRUSTEES - CHAPTER 12***Reserved***Vt. LBR 2015-5. TRUSTEES - CHAPTER 13***Reserved***Vt. LBR 2016-1. COMPENSATION OF PROFESSIONALS**

- (a) **Fee Application Guidelines.** Any entity seeking interim or final compensation for professional services, or reimbursement of necessary expenses, must comply with Fed. R. Bankr. P. 2016, the United States Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330, Appendix A to 28 CFR § 58 ("UST Fee Guidelines"), and applicable case law. [See also Vt. LBR 6005-1 regarding auctioneers.]
- (b) **Certification Required.** The trustee, debtor, or appropriate officer of the debtor must review the fee application of its professional and must file with the Clerk a certificate supporting or opposing the application before the Court will rule on the application.
- (c) **Retainers.** In a chapter 11 or 12 case, no drawing down of, or payment from, retainers is allowed without a specific order of the Court, notwithstanding any agreements to the contrary between a debtor and its professionals.
- (d) **Requirement to File Fee Applications.** The Court, in its discretion, may order any debtor's attorney to file a fee application in any case pending under title 11 and may direct disgorgement of all or part of the fee if the Court finds the fee to be unreasonable.
- (e) **Real Estate Brokers.** If approved in the retention order, real estate brokers may be paid the customary commission at closing, subject to disgorgement in the event that the Court determines that the estate is administratively insolvent or the commission is unreasonable under the particular circumstances of the case. [See Vt. LBR 6004-1(a)(4).]
- (f) **The Fee Charged** by chapter 7 or 13 debtors' counsel must encompass counsel rendering the following services:
 - (1) Services required in both chapter 7 and 13 cases:

- (A) analysis of the financial situation and rendering advice and assistance to the client in determining whether to file a petition under title 11, United States Code;
 - (B) preparation and filing of the petition, lists, statements, and schedules;
 - (C) representation of the debtor at the 11 U.S.C. § 341 meeting of creditors;
 - (D) amendment of lists, statements, or schedules to comport with developments that occurred before or at the 11 U.S.C. § 341 meeting of creditors;
 - (E) motions under 11 U.S.C. § 522(f) to avoid liens on exempt property;
 - (F) motions, such as motions for abandonment, or other proceedings to clear title to real property owned by the debtor; and
 - (G) removal of garnishments or wage assignments;
- (2) and in chapter 7 cases only, the following services:
- (A) negotiation, preparation, and filing of reaffirmation agreements; and
 - (B) motions under 11 U.S.C. § 722 to redeem exempt personal property from liens;
- (3) and in chapter 13 cases only, the following services:
- (A) attendance at confirmation hearings; and
 - (B) negotiation of the valuation of secured claims or presentation of evidence about collateral valuation at the confirmation hearing.
- (4) If the debtor and the attorney agree that the performance of the foregoing or other necessary services will require additional fees, this must be disclosed as an attachment or amendment to the Fed. R. Bankr. P. 2016(b) statement explicitly stating the additional charges and conditions that would cause or have caused the additional fees to be incurred. This must be signed by the debtor to evidence agreement to the terms.

Vt. LBR 2016-2. PAYMENT OF CHAPTER 13 ATTORNEY'S FEES

Payment of Debtor's Attorney's Fees in Chapter 13 Cases. Attorney's fees set forth in the Fed. R. Bankr. P. 2016(b) Statement that are not paid in full prior to the filing of the case must be paid through the plan, and may be paid ahead of creditors if that treatment is set forth in the plan and approved by the Court. Any attorney's fees incurred subsequent to the initial Rule 2016(b) Statement must be disclosed promptly in an Amended Rule 2016(b) Statement, may be paid only after approval by the Court, and must be paid through the plan.

Vt. LBR 2019-1. REPRESENTATION OF MULTIPLE PARTIES*Reserved***Vt. LBR 2020-1. U.S. TRUSTEE**

- (a) **All Related Documents to be Served in One Envelope.** Movants shall serve the Office of the U.S. Trustee with all notices of motion (setting forth the date of the hearing and the deadline for filing objections, if any), together in the same envelope with the motion, supporting affidavits, exhibits, and a copy of the certificate of service. All *ex parte* applications, together with all supporting affidavits and exhibits, shall be served upon the Office of the U.S. Trustee contemporaneously with the filing of the documents with the Clerk's Office.
- (b) **Service on the Case Trustee.** The case trustee shall be served in the same manner as the Office of the U.S. Trustee.

Vt. LBR 2070-1. ESTATE ADMINISTRATION*Reserved***Vt. LBR 2071-1. COMMITTEES***Reserved***Vt. LBR 2072-1. NOTICE TO OTHER COURTS***Reserved***Vt. LBR 2080-1. CHAPTER 9***Reserved***Vt. LBR 2081-1. CHAPTER 11 - GENERAL***Reserved***Vt. LBR 2082-1. CHAPTER 12 - GENERAL**

Secured and Priority Claims. The chapter 12 trustee shall pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the chapter 12 trustee shall pay the amount provided in the plan.

Vt. LBR 2083-1. CHAPTER 13 - GENERAL

- (a) **Business Operating Orders.** Chapter 13 operating orders will not be issued as a matter of course in every chapter 13 case involving a business debtor. A business operating order may be issued by the Court on its own initiative, upon a motion by the chapter 13 trustee, upon a motion by any other interested person, and upon such terms as the Court deems appropriate.
- (b) **Secured and Priority Claims.** The chapter 13 trustee shall pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a

different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the chapter 13 trustee shall pay the amount provided in the plan.

Vt. LBR 2090-1. ATTORNEYS - ADMISSION TO PRACTICE

- (a) **Admission of Attorneys.** The District Court Local Rules govern admission of attorneys to the Bankruptcy Court generally except when inconsistent with these rules. However, once the Electronic Case Filing System is fully implemented attorneys shall be required to register for the Electronic Case Filing System as a pre-requisite to file papers in this Court, unless, upon motion, registration is excused by the Court. [See also Vt. LBR 9011-1].
- (b) **Admission of Attorneys *Pro Hac Vice*.**
 - (1) **Application for Admission.** Any attorney who is a member in good standing of the Bar of any federal court, or of the highest court of any state, may apply for *pro hac vice* admission by fulfilling the following requirements:
 - (A) **Motion.** A member in good standing of the Bar of this Court who is actively associated with the applicant in this particular action must file a motion making the request for the applicant's *pro hac vice* admission.
 - (B) **Supporting Affidavit.** The attorney seeking admission ("the applicant") must attach to the motion an affidavit containing the following information:
 - (i) the applicant's office address, telephone number, and fax number;
 - (ii) a listing of courts to which the applicant has been admitted to practice and the dates of admission;
 - (iii) a statement that the applicant is in good standing and eligible to practice in the courts;
 - (iv) a statement that the applicant is not currently suspended or disbarred in any jurisdiction;
 - (v) a statement on the nature and status of any pending disciplinary matters involving the applicant; and
 - (vi) a statement that the applicant has read the Local Rules for the District Court for the District of Vermont and these Local Rules; and
 - (vii) proof that the applicant has registered to use the Electronic Case Filing System.
 - (C) **Fee.** The current rate established for the fee shall be paid to "Clerk, U.S. Bankruptcy Court" and must accompany the motion. The fee is non-refundable.

The Clerk shall waive the admission fee for applications made by federal government counsel.

- (2) **Revocation.** The Court may revoke *pro hac vice* admission for good cause at any time without a hearing.
- (3) **Local Counsel.** Unless excused by the Court for good cause, an attorney admitted *pro hac vice* must remain at all times associated in the action with a member of the Bar of this Court upon whom all process, notices, and other papers must be served, who must sign all filings, and whose attendance is required at all proceedings.
- (4) **Non-compliance.** Original proceedings may be filed by an attorney before admission *pro hac vice*, but the time period for filing the responsive pleading does not commence until the appearance of associated local counsel is filed.
- (5) **Pro Hac Vice Admission for Government Counsel.** A state government attorney or a federal government attorney who desires to appear in a case before this Court may apply for admission under this provision.
- (6) **Waiver.** *Pro hac vice* admission is not required for an attorney to file a 11 U.S.C. § 362 motion or a proof of claim.

(c) **Interns and Law Clerks.**

- (1) **Requirements to Appear.** An eligible law student intern or graduate of an approved law school may appear on behalf of a party if he or she:
 - (A) registers as a law clerk under the requirements of the Vermont Supreme Court Rules on Admission to the Bar;
 - (B) is under the supervision of a member of the Bar of this Court; and
 - (C) has written consent from the party being represented.
- (2) **Supervising Attorney.** The attorney who supervises an intern or law clerk must:
 - (A) be a member of the Bar of the United States District or Bankruptcy Court for the District of Vermont;
 - (B) assume personal professional responsibility for the intern's or law clerk's work;
 - (C) assist the intern or law clerk to the extent necessary;
 - (D) introduce the intern or law clerk to the Court at his or her first appearance and appear with him or her at all subsequent court appearances unless his or her presence is waived by the Court;

- (E) file a written agreement to supervise the intern or law clerk under these rules; and
 - (F) notify the Court in writing when the intern's or law clerk's eligibility has terminated under the provisions of subsection (6) below.
- (3) **Law Student Intern Requirements.** To appear pursuant to these rules the law student intern must:
- (A) be enrolled in good standing at a law school approved by the American Bar Association;
 - (B) have completed legal studies amounting to at least 2 semesters of credit, or the equivalent, in a law school approved by the American Bar Association; and
 - (C) not be employed or compensated by a client. This rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law student intern.
- (4) **Law Clerk Requirements.** To appear pursuant to these rules, a law clerk must:
- (A) be a graduate of a law school approved by the American Bar Association and be in the process of completing the clerkship law study requirements of the Vermont Supreme Court Rules on admission to the Bar; or
 - (B) have completed legal clerkship and studies amounting to at least 3 years pursuant to the Vermont Supreme Court Rules on Admission to the Bar under the supervision of a member in good standing of the Bar of the State of Vermont; and
 - (C) not be employed or compensated by a client. However, this rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law clerk.
- (5) **Eligible Duties.** The law student intern or law clerk supervised in accordance with these rules may:
- (A) appear as counsel in Court or at other proceedings upon filing the written consent of the client and supervising attorney referred to above at subsections (c)(1) and (2) and upon approval by the Court of the intern's or law clerk's request to appear;
 - (B) prepare and sign motions, petitions, answers, briefs, and other documents in connection with any matter in which he or she has met the conditions of subsection (5)(A) above. Each filed document must also be signed by the supervising attorney.
- (6) **One-Year Limit.** A law clerk approved to appear under these rules is not eligible for that approval for more than one (1) year after he or she has graduated from an approved law school or pursued legal studies for four (4) years in Vermont under the supervision of a

practicing Vermont attorney as required under the Rules of Admission to the Bar of the Vermont Supreme Court.

Vt. LBR 2090-2. ATTORNEYS - DISCIPLINE & DISBARMENT

This Court shall enforce the disciplinary rules set forth in the District Court Local Rule 83.2(d) when circumstances warrant discipline in this Court.

Vt. LBR 2091-1. ATTORNEYS - WITHDRAWALS

- (a) **Withdrawal or Substitution of Attorney for the Debtor.** An attorney who has appeared as attorney of record for a debtor may withdraw only upon order of the Court. No Order of Withdrawal will be issued without a hearing. An Order Allowing a Substitution of Attorney may be issued without a hearing if a substitution of counsel agreement (signed by the debtor, the withdrawing attorney and the substituting attorney) is filed with the application for withdrawal. Orders granting withdrawal or substitution of debtor's attorney shall be served on all other parties in the proceeding in the same manner as is set forth in (b) below. Attorneys commencing employment in the case as substitute attorneys shall file a statement pursuant to Fed. R. Bankr. P. 2016(b) and otherwise fully comply with Vt. LBR 2016-1 and these rules.
- (b) **Withdrawal or Substitution of Other Attorneys.** Notice of withdrawal or substitution of attorneys other than debtor's counsel shall be deemed effective upon filing with the Clerk and shall be served upon all parties to the proceeding, the case trustee, and the Office of the U.S. Trustee. This rule does not apply to an attorney who has appeared solely for the purpose of filing a proof of claim or a motion under 11 U.S.C. § 362.

PART III

Vt. LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL

No Asset Cases. Every chapter 7 case will be treated as a No Asset Case unless and until the case trustee files a "Notice of Asset Case." Upon the filing of the asset notice, the Court will set a deadline for filing claims and issue a "Notice to File Claims" as required by Fed. R. Bankr. P. 2002(f). Proofs of claim filed in chapter 7 cases not designated as asset cases shall be accepted by the Clerk for filing, but no action will be taken upon them at that time.

Vt. LBR 3006-1. CLAIMS - WITHDRAWALS

Reserved

Vt. LBR 3007-1. CLAIMS - OBJECTIONS

- (a) **Generally.** Each objection to claim must include a copy of the subject proof of claim as an exhibit.
- (b) **Objections to Claims in Chapter 12 and 13 Cases.** Unless otherwise ordered by the Court, any objection in a chapter 12 or 13 case to the allowance, either in whole or part, of a claim which is based on a debt or other obligation incurred prior to the filing of the bankruptcy petition must be

filed no later than 90 days after the entry of a Confirmation Order or by the applicable claims bar date, whichever is later.

- (c) **Objections to Claims in Chapter 11 Cases.** All objections to claims in a chapter 11 case shall be filed and served prior to the hearing held to consider and approve the Disclosure Statement unless otherwise ordered by the Court.

Vt. LBR 3008-1. CLAIMS - RECONSIDERATION
Reserved

Vt. LBR 3009-1. DIVIDENDS - CHAPTER 7
Reserved

Vt. LBR 3010-1. DIVIDENDS - SMALL
Reserved

Vt. LBR 3011-1. UNCLAIMED FUNDS
Reserved

Vt. LBR 3012-1. VALUATION OF COLLATERAL

Valuation of Motor Vehicles. The valuation of motor vehicle collateral shall be presumed to be the midpoint between the National Automobile Dealers Association (“NADA”) wholesale value and the NADA retail value unless (i) the parties agree to a different value, (ii) the debtor or secured creditor presents an appraisal undisputed by the other party, or (iii) the value is fixed by the Court as a result of an evidentiary hearing held specifically to determine the value of a particular vehicle.

Vt. LBR 3015-1 CHAPTER 13 - PLAN

- (a) **Mandatory Fee Disclosure and Payment Through the Plan.** Any unpaid debtor’s attorney’s fee must be disclosed and provided for in the chapter 13 plan or an amendment to the plan, as well as in the Fed. R. Bankr. P. 2016(b) statement, and must be paid through the plan. All fees incurred by the debtor’s attorney during the pendency of the chapter 13 case must be disclosed in an amendment to the Fed. R. Bankr. P. 2016(b) statement, approved by the Court, and paid through the plan. [See also Vt. LBR 2016-3.]
- (b) **Content of Plans.** All plans, regardless of format, shall clearly and conspicuously specify:
 - (1) the amount of the monthly payment;
 - (2) the source of the payment (wage deduction, automatic withdrawal or direct payment);
 - (3) the term of the plan;
 - (4) the total of the plan payments, including any lump sum payments;
 - (5) the total to be paid to each secured creditor, including the amount of interest paid and the interest rate applicable to each secured claim;
 - (6) the total amount to be paid to each priority creditor;
 - (7) the total amount to be paid pro-rata to the unsecured creditors and the estimated percentage divided;

- (8) any liens to be avoided;
- (9) when property reverts in the debtor; and
- (10) any executory contracts to be assumed.

- (c) **Pre-Petition Debts.** All pre-petition debts must be treated in the plan, regardless of the preference of any particular creditor.
- (d) **Payment of Secured Claims.** Secured claims must be paid with interest as determined by applicable bankruptcy law unless the creditor specifically consents to payment without interest. Unless the parties agree otherwise, the trustee shall recommend and the Court shall set the risk factor in each case. The trustee shall compute the interest rate to be applied if the debtor has not properly done so. Treatment of each secured claim, including the interest rate to be paid on the claim, shall be clearly specified in both the plan and the confirmation order.
- (e) **Payment of Undersecured Claims.** Undersecured claims shall be bifurcated. The claim shall be allowed as a secured claim to the extent of the value of the collateral. The balance of the allowed claim shall be an unsecured claim and included in the computation of the dividend to general unsecured creditors. The bifurcated treatment of undersecured claims shall be clearly specified in the plan and confirmation order.
- (f) **Payment of Short-Term Secured Debts.** Short-term secured debts (e.g., automobile loans and leases, equipment loans, rent-to-own “leases”) may be paid through the plan applying the general rules for payment of secured claims set forth above if the holder of the short-term secured claim has notice of the treatment.

Vt. LBR 3015-2. CHAPTER 13 - AMENDMENTS TO PLANS

Reserved

Vt. LBR 3015-3. CHAPTER 13 - CONFIRMATION

- (a) **Objections.** Parties are encouraged to submit objections to the confirmation of a chapter 13 plan in writing. Objections must specify the grounds for the objection whether presented in writing or orally. If in writing, the objection must be filed with the Clerk and served on the chapter 13 trustee, the debtor, and the debtor’s attorney at least three (3) business days prior to the date set for the confirmation hearing.
- (b) **Attendance at Confirmation Hearing.** Absent exigent circumstances and a prior order of the Court, attendance at the confirmation hearing is mandatory for the debtors and their attorney, if any. The debtors must be in the courtroom promptly at the commencement of the confirmation hearing calendar. Failure to attend the confirmation hearing is grounds for dismissal of the case.

Vt. LBR 3015-4. EXTENDING CHAPTER 13 PLAN PAYMENTS BEYOND 36 MONTHS

Chapter 13 plans may be extended beyond 36 months pursuant to a clear and specific provision of the plan. A plan term of longer than 36 months does not require a separate motion and upon a showing of good cause will be approved in the confirmation order.

Vt. LBR 3016-1. CHAPTER 11 - PLAN

Reserved

Vt. LBR 3016-2. DISCLOSURE STATEMENT - GENERAL

Reserved

Vt. LBR 3017-1. DISCLOSURE STATEMENT - APPROVAL

Reserved

Vt. LBR 3017-2. DISCLOSURE STATEMENT - SMALL BUSINESS CASES

(a) Designation of Chapter 11(a) Cases.

- (1) Upon motion made by any party at any time, the Court may order that a chapter 11 case be designated for accelerated treatment. A motion filed by the debtor may be decided without hearing; motions filed by any other party will be set for a hearing.
- (2) Any party in interest or the Office of the U.S. Trustee may, at any time, file a motion requesting that the Court rescind a chapter 11(a) designation. All such motions will be set for a hearing.
- (3) The Court, for good cause, may at any time, with or without motion or notice, order that a chapter 11(a) designation be rescinded.

(b) Time for Filing Chapter 11(a) Plan and Disclosure Statement.

- (1) Unless the Court for good cause orders otherwise, the plan and disclosure statement in a chapter 11(a) case shall be filed by the earlier of 60 days after the 11(a) designation is ordered or 120 days after the case was filed.
- (2) The Court may at any time, for good cause, with or without motion or notice, reduce or extend any time fixed under subsection (1) above for the filing of a plan and disclosure statement.
- (3) The debtor's failure to file a disclosure statement and plan within the time fixed by the Court under subsection (1) or (2) above, or the debtor's failure to obtain approval pursuant to subsection (c)(1) below, shall constitute cause for dismissal or conversion to chapter 7 under 11 U.S.C. § 1112(b)(4).

(c) Conditional Approval of Chapter 11(a) Disclosure Statement, Objections, and Hearing.

- (1) The Court may, without notice or a hearing, consider and enter an order conditionally approving a chapter 11(a) disclosure statement.
- (2) After conditional approval, a chapter 11(a) disclosure statement and proposed plan may be transmitted to parties in interest and used to solicit acceptances or rejections of the plan.

The chapter 11(a) disclosure statement must state that the approval is conditional and that any party in interest may file a timely objection under 11 U.S.C. § 1125.

- (3) An objection to a chapter 11(a) disclosure statement shall specify the grounds for the objection. The objection shall be filed with the Clerk and served on the debtor, the trustee (if any), the Office of the U.S. Trustee, any committee appointed under the Bankruptcy Code, and any other entity designated by the Court. Filing and service shall be at least ten (10) days before the final hearing on the chapter 11(a) disclosure statement and plan confirmation, or by such other date as the Court may fix. Objections and requests to modify a chapter 11(a) disclosure statement will be considered at the confirmation hearing.
- (4) If no objections or requests to modify the chapter 11(a) disclosure statement are filed by the objection deadline, conditional approval shall become final unless the Court orders otherwise.
- (d) **11 U.S.C. 1111(b) Election in a Chapter 11 Case.** A class of secured creditors may make an election under 11 U.S.C. § 1111(b) no later than seven (7) business days prior to the confirmation hearing, unless a different date is set by the Court.
- (e) **Disposable Cash Income in Chapter 11(a) Cases.** At the confirmation hearing the plan proponent must disclose and offer evidence of sufficient cash flow to fund the plan for three (3) years or the life of the plan, whichever is less.

Vt. LBR 3018-1. BALLOTS - VOTING ON PLANS

The plan proponent must place the corresponding mailing list label on each blank ballot for each party to which a ballot is issued. Completed ballots are to be forwarded to the plan proponent or its designee and should not be sent to the Clerk.

Vt. LBR 3018-2. ACCEPTANCE / REJECTION OF PLANS

Pre-Filing Solicitation. A summary of all plan acceptances or rejections solicited before the commencement of a case shall be filed with the Clerk and accompanied by copies of all materials used in soliciting acceptances or rejections. This summary shall be filed with the petition. On request of a party in interest or the Office of the U.S. Trustee, the Court shall hold a hearing to determine if the requirements of 11 U.S.C. § 1126(b) have been met.

Vt. LBR 3018-3. CERTIFICATION OF ACCEPTANCE AND REJECTION OF CHAPTER 11 PLANS

At least five (5) business days prior to the confirmation hearing, the chapter 11 plan proponent shall file the original ballots received with the Clerk and certify in writing to the Court the amount and number of allowed claims of each class accepting or rejecting the plan, and the amount of allowed interests of each class accepting or rejecting the plan. A copy of the certification, with photocopies of the original ballots received unless otherwise requested by the intended recipients, shall be served by the plan proponent on the debtor-in-possession, the trustee, if any, the Office of the U.S. Trustee, and any committee, to be

received not less than three (3) business days prior to the hearing. The Court may find that the plan has been accepted or rejected on the basis of the certification. The hearing on confirmation shall not commence unless the certification has been timely filed, unless for good cause the Court directs otherwise.

Vt. LBR 3019-1. CHAPTER 11 - AMENDMENTS TO PLANS

Reserved

Vt. LBR 3020-1. CHAPTER 11 - CONFIRMATION

- (a) **Confirmation Requirements.** The plan proponent has the burden of proof on confirmation. At least three (3) business days before the confirmation hearing, the plan proponent shall file the following with the Clerk:
- (1) a report on acceptances and rejections of the plan in substantially the same form as Vt. LBF No. 8 Report on Ballots;
 - (2) an affidavit of the plan proponent's responsible officer and its attorney explaining the proof the plan proponent will offer for each of the elements of 11 U.S.C. § 1129(a); and
 - (3) any other document necessary to achieve plan confirmation.
- (b) **Cram Down Under § 1129(b).** Motions for a "cram down" under 11 U.S.C. § 1129(b) will not be heard at the confirmation hearing unless a request for hearing is filed and served on the following parties: the attorneys for all members of the non-accepting classes, or the members if they are not represented by counsel; the attorney for any committee or the committee members if the committee is not represented by counsel; and the Office of the U.S. Trustee. The motions must be served at least ten (10) business days before the date scheduled for the confirmation hearing.
- (c) **Order Confirming Chapter 11 Plan.** Proposed Findings of Fact and Order Confirming the Plan shall be in substantially the same form as Vt. LBF No. 9 Order Confirming chapter 11 plan. The proposed order must provide that all outstanding U.S. Trustee fees will be paid by a date certain and shall contain affirmative decretal paragraphs directing compliance with Vt. LBR 3022-1(a), (c) and (d). The following language is acceptable, and either it or substantially similar language must be included in the Order:

ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall comply with Vt. LBR 3022-1 by filing the report of substantial consummation and the motion for final decree no later than 180 days after the entry of this order confirming the plan, unless the Court, for cause shown, extends the time upon motion filed and served within this 180-day period; and it is further

ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall file with the Court and serve on the Office of the U.S. Trustee an affidavit showing all cash disbursements for each month after confirmation of the case. The affidavit shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter under title 11 of the United States Code, or the dismissal of the case. The affidavit shall disclose all disbursements for the reorganized debtor by stating the total amount of payments

made in that month pursuant to the plan, with a subtotal of payments for each class defined in the plan. The affidavit will further disclose whether the total amount paid to each class complies with the terms of the plan, is in a lesser amount, or whether there is a good faith dispute about the amount owed; the administrative expenses paid; and a total of cash disbursements made in the ordinary course of the debtor's ongoing operations; and it is further

ORDERED that the debtor shall pay a sum certain determined by the Office of the U.S. Trustee to the Office of the U.S. Trustee for fees due pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the entry of this order and to continue to make timely quarterly payments to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) until the entry of the final decree, the conversion of the case to another chapter under title 11 of the United States Code, or the dismissal of the case.

Vt. LBR 3021-1. DIVIDENDS UNDER PLAN (CH. 11)

Reserved

Vt. LBR 3022-1. FINAL REPORT / DECREE (CH. 11)

- (a) **Report of Substantial Consummation.** The proponent of the plan or the disbursing agent defined in the plan shall file a report of substantial consummation that provides a basis for the Court to find that the proponent of the plan has satisfied the criteria of 11 U.S.C. § 1101(2).
 - (1) The report of substantial consummation shall be accompanied by a motion for final decree on notice to all creditors and parties in interest.
 - (2) Unless otherwise ordered, the motion for final decree shall request that the Court terminate jurisdiction over the case and direct the Clerk's Office to close the case and include as exhibits:
 - (A) the final report form in substantial compliance with subsection (d) of this rule, and
 - (B) photocopies of the front and back of each canceled check showing the distributions made pursuant to the confirmed plan for commencement of the distribution under the plan, pursuant to § 1101(2)(C).
 - (3) The items required by subsection (a)(2)(A) and (B) of this rule need not be served with the motion for final decree except that the Office of the U.S. Trustee shall be served with a copy identical to the items filed with the Clerk.
- (b) **Time for Filing.** The Court may require that the report of substantial consummation be filed as early as the time that all checks from payment of the commencement of the distribution under the plan have cleared. In no event shall the report of substantial consummation be filed later than 180 days after entry of a final order confirming a plan, unless the Court, for good cause, extends the time upon motion filed and served within the original 180 day period.

(c) **Affidavit of Post-Confirmation Disbursements.**

- (1) The proponent of the plan or the disbursing agent defined in the plan shall file with the Clerk and serve on the Office of the U.S. Trustee an affidavit showing all cash disbursements for each month after confirmation of the plan.
- (2) The affidavit shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter under title 11 of the United States Code, or the dismissal of the case.
- (3) The monthly affidavit shall disclose all disbursements by stating:
 - (A) the total amount of payments made in that month pursuant to the plan with a subtotal of payments for each class defined in the plan, whether the total amount paid to each class is in compliance with the terms of the plan, whether the amount paid is less than the amount required by the plan, or whether there is a good faith dispute about the amount owed;
 - (B) the administrative expenses paid; and
 - (C) a total of cash disbursements made in the ordinary course of the debtor's ongoing operations, if any.

(d) **Final Report Form.** The final report shall be an affidavit and shall include, but is not limited to, the following information:

(1)	Administrative expenses:	Allowed	Paid
	Trustee compensation (if applicable)	\$_____	\$_____
	Attorney for trustee compensation (if applicable)	\$_____	\$_____
	Attorney for debtor compensation	\$_____	\$_____
	Other professionals' compensation	\$_____	\$_____
	All other administrative expenses (define)	\$_____	\$_____
	Total Administrative expenses	\$_____	\$_____
(2)	Percentage and amount of claims paid: (for each defined class)		
	Percentage of claims paid to class ____	_____ %	_____ %
	Amount paid to class ____	\$_____	\$_____
	Total Plan Payments	\$_____	\$_____

Vt. LBR 3070-1. CHAPTER 13 - PAYMENTS**(a) Payments to the Chapter 13 Trustee.**

A payroll deduction order for plan payments shall be submitted by the chapter 13 trustee prior to or upon the confirmation of the plan in all chapter 13 cases except where the debtor is not receiving a regular paycheck from an employer or where extraordinary circumstances are demonstrated. The chapter 13 trustee, in his or her sole discretion, shall determine and recommend whether a wage deduction order should be waived. The payroll deduction order may be issued before confirmation of a plan. The plan shall state whether payments shall be made by direct payment to the chapter 13 trustee, direct debit of the debtor's bank account, or by wage withholding. Until a payroll deduction order or direct debit of the debtor's account is in effect, the debtor shall make all plan payments in the form of a cashier's check, certified check, or money order payable to the "Chapter 13 Trustee" and the debtor shall mail the payments directly to the chapter 13 trustee, at an address that the trustee designates. The face of the payment instrument shall include the debtor's name and the chapter 13 case number.

(b) Trustee's Expenses Upon Dismissal or Conversion.

- (1) **Standard Award of Expenses.** The chapter 13 trustee may collect from pre-confirmation payments made by the debtor the sum of \$100 (as may be adjusted from time to time) as an award for expenses in any chapter 13 case dismissed or converted to another chapter prior to the confirmation of the chapter 13 plan, pursuant to 11 U.S.C. §§ 503(b) and 1326(a)(2).
- (2) **Itemized Expenses.** Notwithstanding subsection (1), if the chapter 13 trustee determines that a larger reimbursement of expenses is appropriate, the trustee shall itemize the expenses for which reimbursement is sought in the Trustee's Final Report and Account.
- (3) **Notice of Award.** The trustee shall give notice of the proposed award of expenses under subsection (1) or (2) above to the debtor, the debtor's attorney, if any, and the Office of U.S. Trustee by separate written notice, and the Court will consider the trustee's request at the hearing on the Trustee's Final Report and Account.

PART IV**Vt. LBR 4001-1. AUTOMATIC STAY - RELIEF FROM**

- (a) **Motion Contents.** A motion for relief from stay shall include the following information to the extent applicable:
 - (1) the identity of the property such as by vehicle identification number, make, model, serial number, or volume/page and town where recorded, etc., as applicable, and the name and docket number of a pending court action;
 - (2) the names and purported interests of all parties known or discovered after reasonable investigation, who claim to have an interest in the property;

- (3) the amount of the outstanding indebtedness, the fair market value of the property, and the basis for the valuation;
 - (4) legible and complete copies of all relevant loan and security agreements, or initial and signature pages of these documents if voluminous;
 - (5) evidence of perfection; and
 - (6) copies of any prior orders of the Court upon which the motion relies.
- (b) **Service of Motion.** All motions must be filed with the Clerk. The movant must file a separate Certificate of Service showing service of the motion on the debtor, the debtor's attorney, the case trustee, if any, appropriate parties in interest, and the Office of the U.S. Trustee promptly after effecting service and no later than three (3) business days prior to the hearing.
 - (c) **Stipulation.** A stipulation to relief from stay shall describe the property or interest involved, state its fair market value, the basis for valuation, and list any encumbrances against it. A request to limit notice of the stipulation may be granted if the case is a no-asset case or the service of notice would be unduly burdensome. A request to limit notice of a stipulation must be made by separate application and filed with a proposed order. Notice of the stipulation is not required if the parties have previously noticed the relief from stay hearing and no party has objected or the Court has overruled any objection filed.
 - (d) **Final Hearing.** Within 30 days after the filing of a motion for relief from stay, except in those instances where subsection (c) above is used, the Court shall hold a hearing on the motion. The hearing shall be a final evidentiary hearing unless the Court directs otherwise. However, when the parties agree to adjourn the hearing an equal extension of time shall be deemed added to the 30 day requirement set forth in 11 U.S.C. § 362(e).
 - (e) **Order Granting Relief from Stay.** If the order granting relief from stay authorizes sale of collateral, the order must specifically direct the creditor to serve the case trustee with an accounting of the sale within ten (10) days after the sale and further direct the creditor to deliver all surplus money, if any, to the trustee promptly after the consummation of the sale.

Vt. LBR 4001-2. CASH COLLATERAL

- (a) **Motion for Use of Cash Collateral.** A motion for use of cash collateral under 11 U.S.C. § 363 shall explicitly state the adequate protection offered to the secured creditor. Appraisals and projections, to the extent pertinent, are to be summarized in the motion.
- (b) **Interim Hearing on Use of Cash Collateral.** The interim hearing may be a preliminary hearing conducted by telephone conference without transcript or recording. Parties desiring a transcript must provide the reporter or recording device. The parties may present testimony at the interim hearing only after request by a party and approval by the Court. In that event, the interim hearing may be treated by the Court as a final hearing.

- (c) **Final Hearing on Use of Cash Collateral.** The Court may commence a final hearing on a motion to use cash collateral within 15 days after service of the motion. Upon emergency *ex parte* request or stipulation, for good cause shown, the Court may authorize the use of only that amount of cash collateral necessary to avoid immediate and irreparable harm to the estate, but a final hearing shall be held before the 15 day period expires. In addition to the noticing requirements under the Bankruptcy Code and Fed. R. Bankr. P., the final cash collateral hearing must be on notice to all parties on the master mailing list.

Vt. LBR 4001-3. OBTAINING CREDIT

Reserved

Vt. LBR 4002-1. DEBTOR'S DUTIES

- (a) **Books and Records.** Upon filing its petition, the debtor shall close and preserve its present books of account. Debtors-in-possession shall open and maintain new books of account showing all income, expenditures, receipts and disbursements, and all other necessary financial information of the debtor while a debtor-in-possession.
- (b) **U.S. Trustee Operating Guidelines.** The debtor shall comply with all operating guidelines issued by the Office of the U.S. Trustee.

Vt. LBR 4002-2. ADDRESS OF DEBTOR

Reserved

Vt. LBR 4003-1. EXEMPTIONS

Property claimed as exempt in Schedule "C" must be specifically described; general descriptions such as "automobile," "various" or "common stock," are not sufficient. Statutory citations authorizing the exemption must be set forth including the relevant subsections, together with the value claimed as exempt. In a joint case, the exemptions claimed by each debtor shall be separately identified by spouse.

Vt. LBR 4003-2. LIEN AVOIDANCE

- (a) **Lien Avoidance.** Any motion filed pursuant to 11 U.S.C. § 522(f) to avoid the fixing of a lien on an interest of the debtor in property must be filed at or before the date that the confirmation order is entered, if it is a chapter 12 or 13 case, and before the case is closed if it is a chapter 7 case. If the debtor prevails on the motion, the order must specifically provide that the lien is avoided only if the case is not dismissed. The motion must specify the value of the property, the basis for the valuation, the amount due on the lien(s), and the amount of the claimed exemption.
- (b) **Identification of Liens Subject to Avoidance in a Chapter 12 or 13 Plan.** Any lien subject to avoidance, e.g., pursuant to 11 U.S.C. § 522(f), must be identified in the chapter 12 or 13 plan and included in the amount of unsecured debt for purposes of projecting the minimum dividend for general unsecured creditors. This treatment of the lien and underlying debt shall be clearly specified in both the plan and the confirmation order.

Vt. LBR 4004-1. DISCHARGE HEARINGS

Reserved

Vt. LBR 4004-2. OBJECTIONS TO DISCHARGE

- (a) **Grant of Discharge.** In a chapter 7 case, in addition to the exceptions listed in Fed. R. Bankr. P. 4004(c), the Court shall not grant a discharge if:
- (1) the debtor has failed to appear and be examined at the 11 U.S.C. § 341 meeting of creditors without leave of court; or
 - (2) the trustee or any party in interest has timely moved for dismissal, prior to granting a discharge, pursuant to 11 U.S.C. § 707(a); or the Office of the U.S. Trustee or the Court has timely moved for dismissal of the case pursuant to 11 U.S.C. § 707(b).
- (b) **Dismissal of Complaint.** Any motion for voluntary dismissal of a complaint objecting to discharge must be accompanied by affidavits executed by the plaintiff(s) and the debtor(s) stating that no consideration has been promised or given to effect the withdrawal, or, if any consideration has been promised or given, the nature, terms, and amount thereof. All motions for voluntary dismissal shall be adjudicated at a court hearing, on notice to all creditors, unless the Court orders otherwise.

Vt. LBR 4007-1. DISCHARGEABILITY COMPLAINTS

Reserved

Vt. LBR 4008-1. REAFFIRMATION

Reserved

Vt. LBR 4070-1. INSURANCE

Reserved

Vt. LBR 4071-1. VIOLATION OF AUTOMATIC STAY

Reserved

PART V

Vt. LBR 5001-1. COURT ADMINISTRATION

Reserved

Vt. LBR 5001-2. CLERK - OFFICE LOCATION/HOURS AND PUBLIC ACCESS TO RECORDS

- (a) **Hours and Place for On-Site Filing, and On-Site Access to Records.** Petitions and all other pleadings may be filed on-site in the Clerk's Office between 8:00 A.M. and 5:00 P.M. Monday through Friday except federal holidays.
- (b) **Address, Telephone and Fax Numbers.** The mailing address of the Clerk is P.O. Box 6648, Rutland, VT 05702-6648. The physical address of the Clerk's Office is The Opera House, 67

Merchants Row, Rutland, VT 05701. The telephone number for the Clerk's Office is (802) 776-2000; and the fax number is (802) 776-2020.

- (c) **Webpage.** Information about the Clerk's Office, a copy of these Local Rules, a copy of issued decisions of this Court, information about electronic case filing and instructions for how to schedule a hearing as well as other useful information can be found at the Court's website at <http://www.vtb.uscourts.gov>.
- (d) **Hours of Electronic Filing and Public Access to Electronic Records.** Any person or entity may query the Electronic Case Filing System at the court's Internet site <http://www.vtb.uscourts.gov> by obtaining a PACER log-in and password. Those who have PACER access but who are not a party registered to use the Electronic Case Filing System may retrieve docket sheets and documents, but may not file documents. Only parties who are registered may file documents through the Electronic Case Filing System.
- (e) **Orders Limiting Access.** In connection with the filing of any material after implementation of the Electronic Case Filing System, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access to specific information is likely to prejudice those privacy interests. [See also Vt. LBR 5005-1]
- (f) **Privacy Concerns.** Information posted on the Electronic Case Filing System must not be downloaded for uses inconsistent with the privacy concerns of any person.
- (g) **Access to Information from Outside the Clerk's Office.** Documents may be filed, downloaded or viewed electronically, off-site, 24 hours per day, 7 days per week, in compliance with the procedures set forth in these rules.

Vt. LBR 5003-1. CLERK - DUTY TO MAINTAIN RECORDS

- (a) **General Duty to Maintain All Records.** The Clerk shall maintain all official records of the Court.
- (b) **Paper Records for Cases Filed Electronically.** With regard to each case filed electronically, the Clerk will retain the following documents for a minimum of 5 years: (i) the original paper filing of the Declaration Regarding Electronic Filing ("Declaration REF") under penalty of perjury with original signature of the debtor relating to the petition, schedules and statements filed to commence a case, (ii) the paper form of the Declaration REF with original signature as to any amendments to these documents, and (iii) the original paper filing of every chapter 11 operating report or amendment to operating report. A copy of the Notice of Electronic Filing which includes the electronic document stamp shall be attached to each of these documents.

Vt. LBR 5003-2. COURT PAPERS - REMOVAL OF *Reserved*

Vt. LBR 5003-3. CLAIMS REGISTER *Reserved*

Vt. LBR 5005-1. FILING PAPERS AND REQUIREMENTS FOR FILING AND SEALING DOCUMENTS

- (a) **Order Required to Seal Documents.** All official records in possession of the Clerk are considered to be public documents available for inspection, both on paper at the Clerk's Office and electronically through the Court's website, unless otherwise ordered. Cases and documents may be sealed only with an order from the Court.
- (b) **Filing Procedure for Sealing Documents.** To request that a filing be sealed, a separate motion to seal must accompany the specific item to be sealed pursuant to 11 U.S.C. § 107 and Fed. R. Bankr. P. 9018.
- (c) **Documents Filed Under Protective Order.** Any party filing a prospectively sealed document must place the document in a sealed envelope and affix a copy of the document's cover page (with confidential information deleted) to the outside of the envelope. The party must designate the envelope with a conspicuous notation such as "DOCUMENT SUBJECT TO PROTECTIVE ORDER" or the equivalent.
- (d) **Sealed Documents in an Electronically Filed Case.** Documents to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the Clerk.

Vt. LBR 5005-2. FILING PAPERS - CONSEQUENCES OF ELECTRONIC FILING

- (a) **Consequences of Electronic Filing.** Electronic transmission of a document to the Electronic Case Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed. R. Bankr. P. 5003.
- (b) **Official Record and Deemed Filing Date.** When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Clerk, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the date and time entered into the Electronic Case Filing System. [See also Vt LBR 1002-1(c).]
- (c) **Filing Deadline Not Altered.** Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight in order to be considered filed that day.

Vt. LBR 5005-3. FILING PAPERS - SIZE OF PAPERS

- (a) **Size and Format.** Filings and attachments must conform to these specifications:

- (1) be on 8 ½ x 11 inch paper;
 - (2) be plainly legible, whether typed, handwritten or duplicated;
 - (3) have no less than three-quarter inch (3/4") margins, exclusive of page numbers;
 - (4) be consecutively paginated, with page numbers on the bottom of the page;
 - (5) be double-spaced, except for quoted material and footnotes;
 - (6) use footnotes sparingly; and
 - (7) be stapled or otherwise attached but not permanently bound or submitted in a binder.
- (b) **Identification of Attorney and Party.** The attorney's name, current office address, telephone number and fax number, if any, must appear below the signature line of all filings, whether filed on paper or via electronic means.
- (c) **Identification of Filings.** All filings must contain:
- (1) the caption of the case, including the debtor's full name as stated on the petition and the chapter;
 - (2) the correct case number, except for documents filed with or before the petition, when no case number is yet assigned;
 - (3) a title describing the filing's contents;
 - (4) the name of the party on whose behalf it is filed;
 - (5) signatures complying with the current practice regarding original, fax, and electronic filing signatures; and
 - (6) the title or function in the case of all persons named at least once in the filed document.
- (d) **Affidavits.** An affidavit must identify the filing it relates to by indicating that document's title and date of filing.
- (e) **Removed Actions.** This rule does not apply to papers filed in actions removed here to this Court or to transmission of the record to this Court.

Vt. LBR 5005-4. ELECTRONIC AND FAX FILING

- (a) **Case Management/Electronic Case Filing.** Petitions, pleadings, and other documents may be filed by electronic means once the Case Management/Electronic Case Filing system ("CM/ECF") is fully implemented in this Court (estimated to be before the end of calendar year 2001).

Instructions and procedures for electronic filing shall be distributed by the Clerk to members of the Bar and interested parties, will be posted on the Court's website at <http://www.vtb.uscourts.gov>, and will be available from the Clerk's Office upon request. When electronic filing is required, documents shall be filed, signed, or verified by means that are consistent with these rules and any subsequent standing orders issued by the Court. [See also Vt. LBR 5003-1(b)].

(b) **Eligibility, Registration and Passwords for Electronic Filings.**

- (1) **Registration - Attorneys.** Attorneys admitted to the bar of this Court (including those admitted *pro hac vice*), United States Trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and others as the Court deems appropriate, may register to use the Court's Electronic Case Filing System. Registration is in the form prescribed by the Clerk and requires the registrant's name, address, telephone number and fax number, and in the case of an attorney, a declaration that the attorney is admitted to the bar of this Court. If an attorney wishes to receive electronic notices from the Electronic Case Filing System, he or she must also provide an e-mail address on the registration form.
- (2) **Registration - Non-Attorneys.** If the Court permits, a party to a pending matter who is not represented by an attorney may register as a party registered to use the Electronic Case Filing System solely for purposes of the matter. In order to register, however, one must have already been trained by the Clerk's Office, unless the party seeks only to file a proof of claim. Registration is in the form prescribed by the Clerk and requires identification of the case and matter as well as the name, address, telephone number and fax number, if any, of the party. If the registrant wishes to receive electronic notices from the Electronic Case Filing System, he or she must also provide an e-mail address on the registration form. If, during the course of the matter, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's Electronic Case Filing System registration upon the attorney's filing of an appearance in the matter.
- (3) **Waiver of Service and Notice by Mail.** If one provides an e-mail address in the Electronic Case Filing System registration then one has (1) waived the right to receive notice by first class mail and has consented to receive notice electronically; and (2) waived the right to service by personal service or first class mail and consented to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class mail also applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.
- (4) **Security of Passwords.** Once registration is completed, the registrant will receive notification of the user log-in and password. Parties registered to use the Electronic Case Filing System agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with the provision.

- (c) **Fax Filings.** The following documents may be filed by facsimile: emergency petitions filed pursuant to Fed. R. Bankr. P. 1007(c), proofs of claim, adversary proceeding complaints, objections

to motions or any other pleadings. Parties filing by fax are required to attempt service on all parties in interest via fax and simultaneously fax a certificate of service to the Clerk. Exhibits to pleadings filed by fax must be clearly marked as exhibits. It is not necessary to mail an original of the document faxed to the Clerk except that a Fax Declaration with the debtor's original signature must be filed within three (3) business days as to any petition, schedules, statements or amendments thereto. Court fees required at the time of filing must be paid using the provisions set forth in section (f) of this rule. The Office of the U.S. Trustee will not accept service of any documents by fax; therefore all items sent to the Office of the U.S. Trustee via facsimile must also be served on the Office of the U.S. Trustee by first class mail. [See Vt. LBR 5001-2(b) for fax number].

The case shall be deemed commenced as of the date and time of filing as stamped by the Clerk on the facsimile copy prior to implementation of the Electronic Case Filing System and shall be deemed filed upon entry into electronic format after implementation for the Electronic Case Filing System.

- (d) **Fax Filings Served by Vendor.** Documents may also be filed through the service of a vendor. Filers shall instruct the vendor to deliver the correct quantity of copies for filing and processing in the same fashion as any hand-delivered document. Court fees required at the time of filing may be paid as described in Vt. LBR 5081-1.
- (e) **Technical Failures.** A party registered to use the Electronic Case Filing System whose filing is rendered untimely as a result of a technical failure may seek appropriate relief from the Court.
- (f) **Payment.** Payment shall be made as provided in Vt. LBR 5081-1, except that payment must be made by credit card (or debit card, if feasible) when a fee is due in connection with a document filed electronically.

Vt. LBR 5009-1. FINAL REPORT/DECREE

Reserved

Vt. LBR 5010-1. REOPENING CASES

Reserved

Vt. LBR 5011-1. WITHDRAWAL OF REFERENCE

Reserved

Vt. LBR 5011-2. ABSTENTION

Reserved

Vt. LBR 5070-1. CALENDARS & SCHEDULING

Attorneys may schedule hearings for all matters to be heard in both Rutland and Burlington, except that only the courtroom deputy may set hearings for pre-trial conferences, summary judgment motions, evidentiary hearings, trials, disclosure statement hearings, and confirmation hearings.

Vt. LBR 5071-1. CONTINUANCES

Continuances. No continuances will be granted except upon motion for good cause and upon such terms and conditions as the Court may impose. Mere agreement of counsel does not constitute good cause. A continuance based on a conflicting engagement must be accompanied by proof that the other matter was scheduled first and must be timely filed with the Clerk. A motion to continue a trial must contain a certification that the party on whose behalf the request has been filed and opposing counsel have both been notified of the request for a continuance.

Vt. LBR 5072-1. COURTROOM DECORUM

The following procedures are to be followed in all proceedings in open court:

- (a) there shall be no oral confrontation or colloquy directly between opposing attorneys or parties;
- (b) all persons addressing the Court shall stand, unless the hearing is conducted via interactive TV, and the Court determines implementation of this rule would interfere with effective transmission;
- (c) all objections shall be stated with specificity prior to any argument or explanation of same, i.e., leading, hearsay, improper foundation, etc.;
- (d) during the testimony of a witness, attorneys shall not approach the witness box, bench, or the court reporter without the Court's prior approval, and all witnesses shall be treated with dignity and respect;
- (e) counsel shall request assistance from the courtroom deputy if they wish to use blackboards, view boxes, or other audio-visual aids and shall make their request sufficiently in advance of the need to allow for set-up of this equipment when the Court is not in session;
- (f) counsel wishing to appear by telephone shall obtain Court approval in advance and make arrangements for the telephonic connection with the courtroom deputy at least one (1) full business day in advance of the time set for the hearing;
- (g) counsel and their clients shall all be seated in the courtroom while waiting for their case to be called and shall refrain from talking while court is in session;
- (h) unless addressing the Court all parties and counsel shall remain seated and shall refrain from talking in the courtroom;
- (i) counsel and their clients, if present, shall be in the courtroom and prepared to proceed when their case is called;
- (j) counsel shall address each other and all witnesses by formal name (rather than by first name) during all court proceedings; and
- (k) counsel shall complete an appearance form and give it to the court reporter when their case is called.

Vt. LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES & BROADCASTING

- (a) **Prohibition Against Certain Devices.** The use of cameras, radios, portable telephones, paging devices, tape recorders, and the like is expressly prohibited in any court facility, except with the Court's permission. Failure to follow this rule shall be grounds for refusal of admission to court facilities and may subject the offender to (i) detention, arrest, and prosecution as provided by law, or (ii) sanctions imposed by the Court.
- (b) **Broadcasting and Recording by Court.** The Court may permit electronic or photographic preservation of evidence and perpetuation of the record. The Court may also permit broadcasting, televising, or photographing of investigative or ceremonial proceedings. The Court may conduct video conferences at the Court or at an off-site location.

Vt. LBR 5075-1. CLERK - DELEGATED FUNCTIONS OF
*Reserved***Vt. LBR 5076-1. COURT REPORTING**

- (a) **Proceedings, Hearings, and Meetings.** Except as provided in subsection (b) of this rule, all trials and proceedings, other than emergency hearings, shall be recorded by a court reporter or by an electronic sound recording device.
- (b) **Telephonic and Emergency Hearings.** Telephonic and emergency hearings may be conducted with Court approval. A party wishing to have a transcript of a telephonic or emergency hearing must provide a court reporter or means of recording, and must provide a transcript to the Court within five (5) business days following the hearing.

Vt. LBR 5077-1. TRANSCRIPTS

The party requesting a written transcript must pay all expenses to prepare the transcript and must file a copy with the Clerk. If the Court deems a transcript necessary the Court may order transcripts and assign the transcript cost to the parties.

Vt. LBR 5078-1. COPIES - HOW TO ORDER
*Reserved***Vt. LBR 5080-1. FEES - GENERAL**
*Reserved***Vt. LBR 5081-1. FEES /FORM OF PAYMENT**

- (a) **Payments from Debtors.** The Clerk may accept personal checks or credit cards from debtors for services other than the filing of a petition but has discretion and authority to reject personal checks or credit card payments from debtors.

- (b) **Credit Cards Accepted.** Except as provided by (a) above, any of the following are acceptable forms of payment: cash, check, money order, VISA, MasterCard, American Express, Discover, or Diners Club.
- (c) **Payment by Credit Card.** Fees may be paid by physically presenting the credit card, or by providing a separate document including the cardholder's name as it is printed on the card, the credit card number, the expiration date, and an authorization for the Clerk to charge the card. Credit card information provided in accordance with this rule shall remain confidential. Authorization is required for each transaction except that the Clerk may maintain credit card information and waive individual transaction requests for frequent users. Upon the written request from the frequent user in a form acceptable to the Clerk, the written authorization for each transaction may refer to the data on file rather than requiring re-transmittal of the credit card information for each filing.
- (d) **Effect of Non-Payment.** Unless the Court orders otherwise, the Clerk shall not be required to render service for which a fee is prescribed by statute unless the fee is paid in advance.
- (e) **Payment of Fee in Installments.** An application for permission to pay the filing fee through installment payments may be filed pursuant to Fed. R. Bankr. P. 1006(b). [See also Vt. LBR 1006-1.]

Vt. LBR 5090-1. JUDGES - VISITING & RECALLED
Reserved

Vt. LBR 5091-1. SIGNATURES - JUDGES

Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and as if it had been entered on the docket in a conventional manner. [See also Vt. LBR 9036-1(a).]

Vt. LBR 5092-1. SEAL OF COURT
Reserved

Vt. LBR 5095-1. INVESTMENT OF ESTATE FUNDS
Reserved

PART VI

Vt. LBR 6004-1. SALE OF ESTATE PROPERTY

- (a) **Sale or Refinancing of Property in Chapter 13 Cases.**
 - (1) **Order Required.** No sale or refinancing of the debtor's principal residence or other real property may take place while a chapter 13 case is pending unless the Court approves the sale or refinance after notice to all parties in interest [see Fed. R. Bankr. P. 2002(a)(2)], the sale or refinance was approved as part of the confirmation process, or the debtor uses the procedure described in subsection (2) below.

- (2) **Trustee's Approval.** If the debtor wishes to use the proceeds of the sale or refinancing of property to fund a chapter 13 plan, the debtor may request a Certificate of Approval from the chapter 13 trustee upon ten (10) days notice to all parties in interest. The chapter 13 trustee may, after expiration of the notice period, issue a Certificate of Approval authorizing the debtor to use the proceeds of the refinancing or sale of property to pay existing encumbrances if no objections are timely filed. If a timely objection is filed the matter shall be set for a hearing.
 - (3) **Sale Plans.** If the chapter 13 plan sets forth the terms of sale, and if the sale yields the amount of gross and net proceeds and distribution of proceeds that was set forth in the plan, then no separate order approving the sale is required, and the confirmation order will constitute the order approving the sale.
 - (4) **Closing Costs or Broker's Commissions.** Where a chapter 13 plan calls for the sale of real property or personal property and a broker's commission is payable as part of the sale, the broker may collect a commission up to six (6) percent [or ten (10) percent for vacant land or commercial property] of the sale price without a Court order, absent exceptional circumstances. The Court must be made aware of any exceptional circumstances prior to the sale. Customary closing costs do not need prior court approval for disbursement, provided they have been set forth in the plan.
 - (5) **Payment of Secured Claims.** If there is a mortgage or other claim secured by the property being sold and it is to be paid from the sale proceeds, the secured creditor shall be paid directly except that any pre-petition arrearage due shall be paid through the chapter 13 trustee unless the Court orders a different treatment of the secured claim.
- (b) **Sales Outside the Ordinary Course of Business.** Unless the plan proponent is seeking to sell property free and clear of liens, no motion to sell is necessary and a notice of intent to sell is sufficient. The notice for sales outside the ordinary course of business shall include:
- (1) the type of sale and known prospective purchasers;
 - (2) the terms of sale, including but not limited to, the condition and location of the items to be sold, the funds required at approval of the sale, the minimum requirements for bidding, whether the sale is subject to higher and better offers, the form of funds required at approval of the sale and at closing of the sale, and a proposed date for both the actual sale and closing of the sale;
 - (3) identification of the property by vehicle identification number, make, model, serial number if a trailer, or volume and page and town where recorded, etc., as applicable;
 - (4) the names and purported interests of all parties known, or discovered after reasonable investigation, to claim an interest in the property;
 - (5) the amount of any outstanding indebtedness secured by the property and the fair market value of the property; and

- (6) any other information that provides due process to all parties in interest.
- (c) **Notice of Intent to Sell and Order.** The Court will sign and enter an Order Approving Sale of Estate Property by Trustee submitted in conjunction with a notice of intent to sell as referenced in sub-section (b) provided the proposed order contains all the information set forth in the notice, indicates that no objections were filed within the time required under the applicable Federal Rules of Bankruptcy Procedure, and contains sufficient specificity to allow the Court to make a determination that the statutory requirements of 11 U.S.C. § 363(b)(1) have been met.
- (d) **Form of Order.** All orders approving sales shall state the name and address of the buyer, identify the property sold, and specify the amount paid. If the property purchased is different from the property listed on the notice of sale, then the proposed order shall state any differences.
- (e) **Chapter 11 - Additional Requirements.** If the trustee or debtor-in-possession seeks authority to sell all or substantially all of the assets of the estate under 11 U.S.C. § 363(b) prior to the entry of a confirmation order, the motion to sell shall contain the following:
 - (1) a clear and conspicuous statement to that effect;
 - (2) the terms of sale, including but not limited to, the condition and location of the items to be sold, the funds required at approval of the sale, the minimum requirements for bidding, whether the sale is subject to higher and better offers, the form of funds required at approval of the sale and at confirmation of the sale, and a proposed date for both the actual sale and confirmation of the sale;
 - (3) the information required under Fed. R. Bankr. P. 2002(c);
 - (4) the extent to which the proceeds of sale shall be used to benefit each class of creditors;
 - (5) the extent of the debtor's liabilities;
 - (6) the net value of any assets not subject to the proposed sale; and
 - (7) the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

Vt. LBR 6005-1. APPRAISERS & AUCTIONEERS

The following shall apply to auctioneers only.

- (a) **Compensation.** Unless otherwise ordered by the Court for good cause, compensation and reimbursement of expenses shall be allowed to an auctioneer for sale of property as set forth in this rule.

The maximum allowable commissions on the gross proceeds of each sale are as follows:

- (1) 10% of any gross proceeds of sale on the first \$100,000 or less;
 - (2) 5% of any amount in excess of \$100,000 but not in excess of \$200,000; and
 - (3) 2.5% of any amount in excess of \$200,000.
 - (4) The auctioneer shall be reimbursed for reasonable and necessary expenses directly related to the sale including bond or blanket bond premium, cost attributable to the sale, labor, printing, advertising, and insurance, but excluding worker's compensation, social security, unemployment insurance, or other payroll taxes. If the trustee directs the auctioneer to transport goods then the auctioneer shall be reimbursed for the costs associated with that transport. Unless the Court orders otherwise, an auctioneer shall be reimbursed for a blanket bond at a rate of \$100 per case or 10% of the gross proceeds from an auction, whichever is less, less any amounts previously reimbursed for the bond.
- (b) **Purchase Prohibited.** Neither an auctioneer nor any officer, director, stockholder, other insider, relative, agent, or employee of an auctioneer shall purchase directly or indirectly or have a financial interest in the purchase of any property of the estate.
- (c) **Bond.** An auctioneer employed with Court approval shall not act until a surety bond in favor of the United States of America is provided in each estate at the auctioneer's expense, to be approved by and in such sum as may be fixed by the Court, conditioned upon:
- (1) the faithful and prompt accounting for all monies and property which may come into the possession of the auctioneer;
 - (2) compliance with all rules, orders, and decrees of the Court; and
 - (3) the faithful performance of duties in all respects.
- In lieu of a bond in each case, an auctioneer may file a blanket bond covering all cases in which the auctioneer may act. A blanket bond shall be the expense of the auctioneer, in favor of the United States of America, and in an amount sufficient to cover the aggregate appraised value of all property to be sold.
- (d) **Report of Sale.** The auctioneer shall file a report with the Clerk and serve a copy of the report on the Office of the U.S. Trustee and the case trustee, if any, within 30 days after the conclusion of the sale. The report of sale shall set forth:
- (1) the time, date, and place of sale;
 - (2) the gross amount realized by the sale;
 - (3) an itemized statement of commissions sought under this rule and disbursements made, including the name of the payee and the original receipts or canceled checks, or copies thereof, substantiating the disbursements. Where labor charges are included, the report shall

specify the names of the persons employed, the hourly wage, and the number of hours worked by each person. If the canceled checks are not available at the time the report is filed, then the report shall so state, and the canceled checks shall be filed as soon as they become available;

- (4) where the auctioneer has a blanket insurance policy covering all sales conducted, an explanation of how the insurance expense charged to the estate were allocated;
 - (5) the names of all purchasers at the sale;
 - (6) the sign-in sheet, listing the people attending the sale;
 - (7) the disposition of any items for which there was no bid;
 - (8) the terms and conditions of sale read to the audience immediately prior to the commencement of the sale;
 - (9) a statement of the manner and extent of advertising for the sale and the availability of the items for inspection prior to the sale;
 - (10) the amount of sales tax collected; and
 - (11) such other information as the Court or the Office of the U.S. Trustee may require.
- (e) **Proceeds of the Amount of Sale.** Unless otherwise ordered by the Court, the proceeds of sale less the auctioneer's reimbursable expenses shall be turned over to the trustee or deposited in a separate interest-bearing account no later than 20 days from the date of sale. No compensation or commission may be paid to the auctioneer until it is approved by the Court as provided in (f) below. The Court also retains jurisdiction to review the auctioneer's reimbursable expenses for validity and reasonableness. In the event the Court determines that a portion of the expenses deducted from the proceeds of the sale is inappropriate or unreasonable the auctioneer shall be required to return that portion to the trustee immediately.
- (f) **Application for Commissions and Expenses.** An auctioneer shall apply to the Court for approval of commissions and expenses on not less than 20 days notice as required by Fed. R. Bankr. P. 2002 and Vt. LBR 2002-1. That application will not be granted unless the report referred to in subsection (d) of this rule has been filed.

Vt. LBR 6006-1. EXECUTORY CONTRACTS

Reserved

Vt. LBR 6007-1. ABANDONMENT

Notice of Proposed Abandonment or Disposition of Property and Order Granting Abandonment. The Court will sign and enter an Order of Abandonment submitted by the trustee in conjunction with a Notice of Intent to Abandon as referenced in Fed. R. Bankr. P. 6007 provided the notice: (i) clearly

identifies the subject property, (ii) provides satisfactory proof of the value of the property and of any liens or encumbrances properly perfected against the property, and (iii) generally contains all the information that would be required in a motion to abandon so that the Court can make a determination as to whether the property is burdensome or of inconsequential value and benefit to the estate. The proposed Order of Abandonment must identify the property in the same terms as set forth in the Notice of Intent, indicate that service has been properly effected, and affirm that no objections stating grounds for relief under 11 U.S.C. § 554(a) were filed within the time required under the applicable Federal Rules of Bankruptcy Procedure.

Vt. LBR 6008-1. REDEMPTION

- (a) **Joint Motions.** The signature of the debtor on a redemption agreement shall be deemed to authorize the creditor to file a joint motion for approval of the redemption agreement.

A motion to approve a redemption agreement must include:

- (1) a copy of the redemption agreement;
- (2) a copy of the instruments creating and perfecting the security interest; and
- (3) a complete description of the property, including the present location and condition of the property, original purchase price, date of purchase, amount paid to date, amount still due, and any other information necessary for the Court to make a determination of the appropriateness of the redemption request.

- (b) **Debtors' Contested Motions.** A motion for approval of a redemption agreement may proceed via a default motion under Vt. LBR 9013-1. The Court shall have discretion to set the matter for hearing and require attendance by the creditor, the creditor's counsel, the debtor's counsel, or the debtor.

- (c) **Required Hearings.** A motion for approval of an agreement to redeem property for payments totaling \$1,000 or more in principal, interest, and charges shall be set for hearing. Attendance by creditor's counsel and either the debtor or the debtor's attorney is mandatory if the redemption price is \$1,000 or more.

Vt. LBR 6070-1. TAX RETURNS & TAX REFUNDS

Tax Returns Due to Trustee in Chapter 11, 12 and 13 Cases. The debtor shall provide a copy of all filed federal and state tax returns to the case trustee, or if there is no case trustee, then to the Office of the U.S. Trustee, at the time of filing with the Internal Revenue Service and State Department of Tax until the case has been closed, dismissed or converted.

PART VII

Vt. LBR 7001-1. ADVERSARY PROCEEDINGS - GENERAL

Reserved

Vt. LBR 7003-1. COVER SHEET

Default Motions. A cover sheet shall accompany the original and all copies of default motions. The forms for cover sheets are available from the Clerk and on the Court's website at <http://www.vtb.uscourts.gov>.

Vt. LBR 7004-1. SERVICE OF PROCESS

Reserved

Vt. LBR 7004-2. SUMMONS

After implementation of the Electronic Case Filing System, an attorney may download and print a summons to be served in connection with any adversary proceeding pending in this Court. The summons shall contain the electronic signature of the Clerk and be of the same force and effect as if it had been individually executed in the conventional manner. [See Vt. LBR 7016-1(d).]

Vt. LBR 7005-1. CERTIFICATE OF SERVICE

All certificates of service filed with the Clerk shall have attached a copy of the document served, or a sufficient description thereof, include a copy of the list used for service or a specific listing with the names and addresses of the parties served, and specify the form of service.

Vt. LBR 7005-2. FILING OF DISCOVERY MATERIALS

Reserved

Vt. LBR 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS

Amendments to Pleadings. A party moving to amend a filing must attach a redlined version of the proposed amendment to the motion, clearly designating all additions and deletions. Any amendment, whether filed as a matter of course or upon a motion to amend, must reproduce the entire filing as amended and may not incorporate any prior filing by reference, except with leave of the Court.

Vt. LBR 7008-1. CORE / NON-CORE DESIGNATION (COMPLAINT)

- (a) **Non-Core Proceedings.** The Bankruptcy Court may hear all non-core proceedings related to a case under title 11 U.S.C. filed in this District
- (b) **By Consent.** When the parties do not consent to the Bankruptcy Court's entry of final orders in a non-core proceeding, the Bankruptcy Court may, in addition to proposed findings of fact and conclusions of law, also file recommendations concerning whether a review of the proceeding should be expedited and whether other proceedings in the bankruptcy case should be stayed pending the determination by the United States District Court of the non-core proceeding. The Bankruptcy Clerk shall mail copies of these documents to the parties.
- (c) **Objections to Proposed Findings of Fact or Conclusions of Law.** Within ten (10) days of the mailing of the Proposed Findings of Fact and Conclusions of Law, any party to the adversary proceeding may file an objection with the Clerk. Failure to file an objection will be deemed consent

to the entry of an order by the Bankruptcy Court directing that the proposed findings of fact and conclusions of law be made final. In the event of an objection, the Clerk shall transmit to the United States District Court all relevant parts of the record. The final order shall then be issued by the United States District Court for the District of Vermont.

Vt. LBR 7012-1. CORE / NON-CORE DESIGNATION (RESPONSIVE PLEADING)

Reserved

Vt. LBR 7016-1. PRE-TRIAL PROCEDURES

- (a) **Notice: Appearance.** Counsel for the plaintiff and counsel for the defendant will be notified of the case scheduling conference shortly after the expiration of the time period within which answers were due. All counsel and unrepresented parties are required to appear at the case scheduling conference set by the Court unless (i) a proposed discovery plan is submitted timely, (ii) the Court approves the plan prior to the conference date, and (iii) the Clerk's Office notifies the parties that the case scheduling conference is canceled. All counsel are required to attend final pre-trial conferences. If an attorney or a *pro se* party fails to appear at the pre-trial conference, or otherwise fails to abide by the requirements of this rule or the scheduling order, the Court may take such action as it deems appropriate, including the imposition of sanctions or dismissal of the proceeding.
- (b) **Pre-Trial Statements.** It is the plaintiff's responsibility to prepare and timely serve the first draft of the Preliminary Pre-trial Statement on opposing counsel at least five (5) business days before the Joint Pre-Trial Statement is required to be filed.
- (c) **Pre-Trial and Status Conferences.** Pre-trial and status conferences in adversary proceedings may be held by telephone if approved by the Court and scheduled with the courtroom deputy in advance.
- (d) **Case Scheduling Conference.** The Clerk will provide the plaintiff with an Order on Pretrial Deadline upon the filing of the complaint. The plaintiff is responsible for serving the order on each defendant along with the summons and complaint. The plaintiff shall also initiate the scheduling of the Fed. R. Bankr. P. 7026(f) conference in a timely manner.

Vt. LBR 7023-1. CLASS ACTION

Reserved

Vt. LBR 7024-1. INTERVENTION

Reserved

Vt. LBR 7024-2. UNCONSTITUTIONALITY, CLAIM OF

Constitutionality. If at any time prior to the trial of an adversary proceeding that does not include the United States, an individual State, an agency, officer, or employee of either the state or federal government, a party draws into question the constitutionality of an Act of Congress or a State statute affecting the public interest, that party shall notify the Court in writing of the existence of the question and specifically identify the statute and the respects in which it is claimed to be unconstitutional so that the Court may comply with the requirements of 28 U.S.C. § 2403(a) and (b).

Vt. LBR 7026-1. DISCOVERY - GENERAL

- (a) **Initial Disclosure.** Pursuant to Fed. R. Bankr. P. 7026, the provisions of Fed. R. Civ. P. 26(a)(1) apply in this District unless the Court orders otherwise.
- (b) **Limits on Interrogatories.** No party shall serve any other party, at any one time or cumulatively, more than 25 written interrogatories, including all discrete sub-parts. Exceptions to this rule may be granted by the Court only upon written motion showing good cause. Interrogatories need not be filed with the Clerk.
- (c) **Limits on Depositions.** No party shall take more than ten (10) depositions, whether upon oral examination under Fed. R. Bankr. P. 7030 or upon written questions under Fed. R. Bankr. P. 7031. Exceptions to this rule may be granted by the Court only upon written motion showing good cause. Transcripts of depositions need not be filed with the Clerk.
- (d) **Requirement of a Writing.** All objections to interrogatories, depositions, requests, applications under Fed. R. Bankr. P. 7037, and all motions and replies concerning discovery matters shall be in writing and recite with specificity the offending interrogatory, deposition, request, or application. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.
- (e) **Objections to Discovery Process.** An objection to any interrogatory, deposition, request, or application under Fed. R. Bankr. P. 7037 shall be filed within 30 days after service of the offending interrogatory, deposition, request, or application unless otherwise ordered by the Court. The filing of an objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically included in the objection.
- (f) **Mandatory Consultation Among Counsel.** In addition to the mandatory Fed. R. Bankr. P. 7026(f) conference, counsel are encouraged to participate in non-court, pre-trial discovery conferences to decrease in every way possible the filing of unnecessary discovery motions. A motion concerning a discovery dispute shall not be filed until all counsel have explored the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning a discovery matter unless the motion is accompanied by a statement of counsel that a good faith effort has been made by counsel to resolve the discovery matter at issue.
- (g) **Motions to Compel.** After a discovery request is objected to or not complied with in a timely manner, and if not otherwise resolved under subsection (f), it is the responsibility of the party initiating discovery to place the matter before the Court in a timely manner. To compel an answer, production, designation, or inspection, a motion must be filed under Fed. R. Bankr. P. 7037. However, a party properly noticed of a deposition must appear and submit to the deposition unless a motion to quash has been granted.
- (h) **Other Discovery Motions.** Motions for a protective order under Fed. R. Bankr. P. 7026(c) and motions to compel physical or mental examination, including Fed. R. Bankr. P. 7035, shall comply with Vt. LBR 9013-2 and subsection (f) hereof.

- (i) **Discovery Replies.** Replies to discovery motions shall be filed within ten (10) days after service of the motion, unless otherwise ordered by the Court.
- (j) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be done within ten (10) days after the entry of the order of the Court, oral or otherwise, unless otherwise ordered by the Court.
- (k) **Failure to Comply with Order.** Should a party fail to comply with an order of the Court concerning discovery motions, it is the responsibility of the objecting party to place the matter before the Court by a proper motion for supplementary relief under Fed. R. Bankr. P. 7037.
- (l) **Unnecessary Discovery Motions or Objections.** The presentation to the Court of unnecessary discovery motions or requests, as well as unwarranted opposition to proper discovery proceedings, may subject the offender to sanctions, including the imposition of costs and counsel fees.

Vt. LBR 7027-1. DEPOSITIONS & EXAMINATIONS (AP's)

Reserved

Vt. LBR 7040-1. ASSIGNMENT OF ADVERSARY PROCEEDINGS

Reserved

Vt. LBR 7052-1. FINDINGS & CONCLUSIONS

Reserved

Vt. LBR 7054-1. COSTS - TAXATION/PAYMENT

Reserved

Vt. LBR 7055-1. DEFAULT

- (a) **By the Clerk.** A judgment of default may be entered by the Clerk upon application for default judgment with affidavits and amount due, including costs and disbursements if any, filed by the party entitled to judgment other than under 11 U.S.C. §§ 523 or 727. The affidavit shall include a statement that no defense or other response of any kind has been received, or if received shall detail the defense or other response received. If the party in default has appeared in the proceeding, notice of the application for default judgment shall be served pursuant to Fed. R. Bankr. P. 7055 as it incorporates Fed. R. Civ. P. 55(b)(2). The Court may order a hearing on any application for default judgment.
- (b) **Documents to Submit.** When a party is entitled to have a default judgment entered by the Clerk pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(b)(1), the party must submit the following:
 - (1) application for Clerk's entry of default pursuant to subsection (2) below;

- (2) the actual Clerk's entry of default, which will be completed by the Clerk's Office when the required information is verified;
- (3) a motion for entry of default judgment by the Court pursuant to (4) below; and
- (4) a proposed default judgment with a statement showing the following:
 - (A) the principal amounts due, not to exceed the amount of the original demand, giving credit for any payments and showing the amounts and dates of all payments,
 - (B) a computation of accrued interest to the proposed date of judgment; and
 - (C) any costs and taxable disbursements claimed.
- (c) **Affidavit.** An affidavit of counsel for the party seeking default judgment must be attached to the default request showing:
 - (1) that the party against whom judgment is sought is not an infant, an incompetent person, or in the military service;
 - (2) that the party has defaulted in their obligation to appear in the action;
 - (3) that the amount shown by the statement is justly due and owing and that no part thereof has been paid except as stated; and
 - (4) that the disbursement sought to be taxed has been made in the action or will necessarily be made or incurred.

The Clerk shall then enter judgment for principal, interest, and costs.

- (d) **By the Court.** When applying for entry of default judgment pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(b)(2) the following papers must be filed:
 - (1) a motion for entry of default judgment;
 - (2) a proposed default judgment order; and
 - (3) an itemized statement regarding damages being requested and the basis therefor.

Vt. LBR 7056-1. SUMMARY JUDGMENT

- (a) **Summary Judgment Motions.**
 - (1) **Statement of Undisputed Facts.** A separate, short, and concise statement of undisputed material facts must accompany every motion for summary judgment. Failure to submit this statement constitutes grounds for denial of the motion.

- (2) **Opposition.** Opposition to a motion for summary judgment, if any, must be filed no more than 21 days after the motion is served. A separate, short, and concise statement of disputed material facts must accompany the opposition brief.
 - (3) **Facts Admitted.** All material facts in the movant's statement of undisputed facts are deemed to be admitted unless controverted by a statement of disputed material facts filed by the opposing party.
 - (4) **Statements.** The statements referred to above are in addition to the material required by Vt. LBR 7056-2.
 - (5) **Time for Filing.** Summary judgment motions must be filed by the date specified in the scheduling order.
- (b) **Tolling.** Although Fed. R. Bankr. P. 7056(b) allows a defending party to move for summary judgment at any time this does not toll the time within which to answer under Fed. R. Bankr. P. 7012(b). Thus, a motion for summary judgment should be coupled with a Fed. R. Bankr. P. 7012(b) motion or an answer must be timely filed.
 - (c) **Consideration by the Court.** Nothing in this rule shall require the Court to review portions of the record in response to a motion where the moving papers do not make specific reference to portions of the record. To expedite a decision or for other good cause, the Court may, on notice to all parties, rule on a motion before the expiration of the 21 day period ordinarily permitted for filing opposition papers.

Vt. LBR 7056-2 REQUIREMENTS - SUMMARY JUDGMENT MOTIONS.

- (a) **Memorandum of Law, Opposition Reply, and Oral Argument in Summary Judgment Motions.** All summary judgment motions shall be accompanied by a written memorandum of law and shall indicate whether oral argument is requested. Failure to submit a memorandum may be deemed sufficient cause to deny the motion. Unless otherwise ordered by the Court, all memoranda in opposition to any motion for summary judgment shall be filed within 21 days of the filing of the motion and shall likewise indicate whether oral argument is requested. Failure to submit a memorandum in opposition to a motion may be deemed sufficient cause to grant the motion. The movant may file a reply memorandum within ten (10) days of the filing of the opposition. The reply shall assume familiarity with the movant's initial memorandum and the opposition and shall be confined to addressing points within the scope of the opposition (including any evidentiary matter introduced by the opposing party) that were not addressed in the movant's initial memorandum. Memoranda of law shall comply with the requirements and restrictions set forth in Vt. LBR 9013-2(a).
- (b) **Oral Argument.** Notwithstanding that a request for oral argument on the motion for summary judgment has been made, the Court has discretion to deny any request for oral argument on a motion for summary judgment.

Vt. LBR 7065-1. INJUNCTIONS

Reserved

Vt. LBR 7067-1. REGISTRY FUND

Reserved

Vt. LBR 7069-1. JUDGMENT - PAYMENT OF

Reserved

PART VIII

Vt. LBR 8001-1. NOTICE OF APPEALS

Reserved

Vt. LBR 8001-2. DISMISSAL OF APPEAL (VOLUNTARY)

Reserved

Vt. LBR 8001-3. ELECTION FOR DISTRICT COURT DETERMINATION OF APPEAL

Reserved

Vt. LBR 8002-1. TIME FOR FILING APPEAL

Reserved

Vt. LBR 8003-1. MOTION FOR LEAVE TO APPEAL

Reserved

Vt. LBR 8004-1. SERVICE OF NOTICE OF APPEAL

Reserved

Vt. LBR 8005-1. STAY PENDING APPEAL

Reserved

Vt. LBR 8006-1. DESIGNATION OF RECORD - APPEAL

Docket References. Each party preparing a Designation of Record on Appeal must include a marked docket sheet indicating those documents contained in the record. The marked docket sheet will serve as an index for the Record on Appeal.

Vt. LBR 8007-1. COMPLETION OF RECORD - APPEAL

Prior to the Transmission of the Record on Appeal the Bankruptcy Court may review the record and verify the accuracy of the transcript of any order appealed.

Vt. LBR 8007-2. TRANSMISSION OF RECORD - APPEAL

Reserved

Vt. LBR 8007-3. DOCKETING OF APPEAL*Reserved***Vt. LBR 8007-4. RECORD FOR PRELIMINARY HEARING - APPEAL***Reserved***Vt. LBR 8008-1. FILING PAPERS - APPEAL**

After the Clerk for the United States District Court for the District of Vermont has given notice to all parties of the date on which the appeal was docketed, all future pleadings in connection with the appeal shall bear the civil case number assigned by the United States District Court, in addition to the bankruptcy case number(s), and shall be filed only with the United States District Court Clerk.

Vt. LBR 8008-2. SERVICE OF ALL PAPERS REQUIRED - APPEAL*Reserved***Vt. LBR 8008-3. MANNER OF SERVING PAPERS - APPEAL***Reserved***Vt. LBR 8008-4. PROOF OF SERVICE OF FILED PAPERS - APPEAL***Reserved***Vt. LBR 8009-1. TIME FOR FILING BRIEFS - APPEAL***Reserved***Vt. LBR 8009-2. TIME FOR FILING APPENDIX TO BRIEF - APPEAL***Reserved***Vt. LBR 8010-1. FORMS OF BRIEFS - APPEAL***Reserved***Vt. LBR 8010-2. REPRODUCTION OF STATUTES, ETC. - APPEAL***Reserved***Vt. LBR 8010-3. LENGTH OF BRIEFS - APPEAL***Reserved***Vt. LBR 8011-1. MOTION, RESPONSE, REPLY - APPEAL***Reserved***Vt. LBR 8011-2. DETERMINATION OF PROCEDURAL MOTION - APPEAL***Reserved***Vt. LBR 8011-3. DETERMINATION OF MOTION - APPEAL***Reserved*

Vt. LBR 8011-4. EMERGENCY MOTION - APPEAL

Reserved

Vt. LBR 8011-5. POWER OF SINGLE JUDGE TO ENTERTAIN MOTIONS

Reserved

Vt. LBR 8012-1. ORAL ARGUMENT - APPEAL

Reserved

Vt. LBR 8013-1. DISPOSITION OF APPEAL

Reserved

Vt. LBR 8014-1. COSTS - APPEAL

Reserved

Vt. LBR 8015-1. MOTION FOR REHEARING - APPEAL

Reserved

Vt. LBR 8016-1. ENTRY OF JUDGMENT BY CLERK OF DISTRICT COURT OR BAP

Reserved

Vt. LBR 8016-2. NOTICE OF ORDER OR JUDGMENT - APPEAL

Reserved

Vt. LBR 8016-3. RETURN OF RECORD ON APPEAL

Reserved

Vt. LBR 8017-1. STAY PENDING APPEAL TO COURT OF APPEALS

Reserved

Vt. LBR 8018-1. LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR DISTRICT COURT

Reserved

Vt. LBR 8019-1. SUSPENSION OF PART VIII, OF THE BANKRUPTCY RULES

Reserved

Vt. LBR 8020-1. DAMAGES AND COSTS FOR FRIVOLOUS APPEAL

Reserved

Vt. LBR 8070-1. DISMISSAL OF APPEAL BY COURT FOR NON-PROSECUTION

Reserved

PART IX

Vt. LBR 9001-1. DEFINITIONS

The terms “documents” and “papers” as used in these rules include those filed or transmitted by electronic means.

Vt. LBR 9003-1. EX PARTE CONTACT

No attorney, accountant, party in interest, or any of their employees shall engage in any *ex parte* meetings or communications with the Bankruptcy Judge or with Chambers’ staff or with Clerk's Office staff concerning any disputed issue of fact or law in a particular case, matter or proceeding. This rule does not limit or prohibit *ex parte* presentation of emergency or administrative matters, or *ex parte* applications contemplated by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules.

Vt. LBR 9004-1. PAPERS - REQUIREMENTS OF FORM

Reserved

Vt. LBR 9004-2. CAPTION - PAPERS, GENERAL

Reserved

Vt. LBR 9006-1. TIME PERIODS

Reserved

Vt. LBR 9009-1. FORMS

Reserved

Vt. LBR 9010-1. ATTORNEYS - NOTICE OF APPEARANCE

Reserved

Vt. LBR 9010-2. POWER OF ATTORNEY

Reserved

Vt. LBR 9011-1. ATTORNEYS - DUTIES AND RETENTION OF DOCUMENTS

- (a) **Acceptance of Employment.** An attorney who accepts employment by a debtor in connection with the filing of a case under the Bankruptcy Code has the duty to render complete and competent services, as set forth in Vt. LBR 2016-1.
- (b) **Retention Requirements as to Electronic Records.** Documents that are filed electronically and require original signatures other than that of the party registered to use the Electronic Case Filing System must be maintained in paper form by the party registered to use the Electronic Case Filing System for five (5) years. The Clerk will retain verifications of petitions, statements and schedules, and chapter 11 operating reports, for five (5) years. On request of this or any other Court, the party registered to use the Electronic Case Filing System must provide original documents for review.

- (c) **Electronic Signatures and Identification.** The user log-in and password required to submit documents to the Electronic Case Filing System serve as the signature of the party registered to use the Electronic Case Filing System on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this Court and any other purpose for which a signature is required in connection with proceedings before the Court. Electronically filed documents must set forth the attorney's name, address, telephone number and fax number. In addition, the name of the party registered to use the Electronic Case Filing System under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear.
- (d) **Unauthorized Use of Password Prohibited.** No party registered to use the Electronic Case Filing System or other person may knowingly permit or cause to permit a password to be used by anyone other than an authorized agent of the party registered to use the Electronic Case Filing System.
- (e) **Electronic Signatures of Multiple Persons.** Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; (4) creating a docket entry noting their consent to a previously filed document; or (5) in any manner approved by the Court.

Vt. LBR 9011-2. *PRO SE* PARTIES

***Pro Se* Designation of Address.** Unless the Court orders otherwise, parties not represented by an attorney shall sign all papers and state their mailing address, residence address, telephone number, and fax number, if any, on all documents filed with the Clerk.

Vt. LBR 9011-3. SANCTIONS

Reserved

Vt. LBR 9011-4. SIGNATURES

- (a) **Signing of Papers.** All pleadings, motions and other papers that are submitted for filing shall be signed by an attorney of record in the attorney's own name, or if there is no attorney, by the party, except that the petition, schedules, statements and plan, if any, shall be signed by the debtor(s).
- (b) **Electronic Signatures.** An attorney will use "/s/ [attorney's name]" when filing documents electronically. This shall constitute the signature of the attorney for purposes of Fed. R. Bankr. P. 9011. The attorney or party who files the document must retain the original signed copy of the filing for at least five (5) years. The original Declaration REF under penalty of perjury relating to the petition, statements, schedules and the original chapter 11 operating reports, and any amendment to any of these types of documents shall be retained by the Clerk for a minimum of five (5) years as set forth in Vt. LBR 5003-1(b). Any password required for electronic filing shall be used only by the attorney to whom the password is assigned and authorized members and employees of the attorney's firm. The attorney shall be responsible for all consequences that flow from documents

filed under his or her electronic signature, as if he or she signed them.

Vt. LBR 9013-1. MOTION PRACTICE

- (a) **Form.** All motions, including objections to discovery, shall be in writing, except those made during trial or hearing. Motions must state the grounds for relief and cite the applicable statute or other authority justifying the relief sought. [See also Vt. LBR 7007-1 as to amendments of pleadings.]
- (b) **Affidavits.** Affidavits in support of a motion must be filed if the motion seeks a finding of certain facts or a resolution of factual issues, and must be filed with the motion.
- (c) **Mandatory Consultation of Counsel and Stipulated Motions.** Any party filing a non-dispositive motion must certify to the Court in the motion that a good faith attempt has been made to obtain a stipulation to the relief sought prior to filing the motion. If obtained, a statement of consent must be included in the body of the motion and the word "Stipulated" must be included in the document title.
- (d) **Service of Motion and Response.** At a minimum, parties shall serve copies of their respective papers upon all opposing counsel, the Office of the U.S. Trustee, and the case trustee, if any. The serving party shall file a certificate of service with the Clerk. Opposing counsel shall have ten (10) days to respond to a motion.
- (e) **Notice of Motion/ Scheduling.** It is the responsibility of moving parties to schedule their own hearings using the procedures below for all routine, non-evidentiary motions. In doing so, parties may choose, if applicable, to utilize the default notice procedures set forth in subsection (f). All other hearings, evidentiary matters, pre-trial scheduling and conferences, and hearings on motions for summary judgment, will be scheduled by the Clerk's Office.
 - (1) **Form.** For all routine, non-evidentiary motions, the moving party shall prepare a Notice of Motion specifying the relief sought, hearing date, the site location, and the objection deadline. The notice shall be in substantially the same form as the Notice of Motion form available on the Court's website at: <http://www.vtb.uscourts.gov>. In preparing the notice, the moving party shall attempt in good faith to coordinate the hearing date, time and location with all counsel or necessary parties based upon mutual convenience and shall adhere to the following guidelines:
 - (2) **Hearing dates/times.** The upcoming court calendar dates, and designated times are posted on the Court's website at: <http://www.vtb.uscourts.gov>, or may be obtained by contacting the courtroom deputy at: (802) 776-2010.
 - (i) **Minimum notice.** Unless a greater period is required by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, service must be made: at least 7 business days prior to objection deadline (a minimum of 12 business days prior to the hearing) when served personally, electronically or by fax; or at least 10 business days prior to objection deadline (a minimum of 15 business days prior to the hearing) if served by U.S. mail.

- (ii) **Objection deadline.** The deadline for filing objections shall be no later than five (5) business days prior to the hearing date.
- (iii) **Chapter.** Only motions in chapter 12 and chapter 13 cases may be scheduled for the dates specified as chapter 12 and chapter 13 calendars, and only chapter 7 and chapter 11 motions may be scheduled for the dates specified as chapter 7 and chapter 11 calendars, unless Court approval is obtained in advance, based on exigent circumstances.
- (iv) **Multiple Motions.** Multiple motions in the same case are to be scheduled in the time frame that corresponds to the primary motion.
- (3) **Hearing Location.** Matters may be scheduled to be heard at either the Rutland Bankruptcy Court site or the Bankruptcy Court’s remote site at the Federal Building in Burlington. All location determinations should be made based on mutual timing concerns and geographic convenience of the participants.
- (4) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

If you object to the motion, you must file a written objection with the Clerk of Court, **on or before 4:00 p.m. on ____ [enter date, 5 business days prior to hearing date]**. A hearing on the motion and any objections will be held at: ____ **[enter time and date of hearing]** at the following location: ____ **[enter location where hearing will be held]**.

A copy of your objection must also be served on the moving party, the debtor, the debtor’s counsel, the Office of the U.S. Trustee, the case trustee, if any; and in a chapter 11 case, the creditors’ committee and its counsel, or if no committee is appointed, then upon the twenty largest unsecured creditors. Addresses for those parties are set out below.

- (f) **Default Procedure.** Certain requests for relief under the Bankruptcy Code and Federal Rules of Bankruptcy Procedure may be determined without a hearing provided that an opportunity for a hearing is presented to parties entitled to notice. Under this procedure, if an objection is filed timely, the Court shall hold a hearing on the date designated on the notice. If no objections are timely filed, the Court may enter an order without a hearing. The default procedure is optional.
 - (1) **Relief Available Using Default Procedure.** This default procedure may be used for motions seeking the following relief:
 - (A) Abandonment of Property [11 U.S.C. § 554(b)];
 - (B) Allowance of Administrative Expenses Other Than Professional Fees [11 U.S.C. § 503(b)];
 - (C) Approve Employment of Professionals [11 U.S.C. § 327];

- (D) Approve Settlement of Adversary or Contested Matter [Fed. R. Bankr. P. 9019];
- (E) Assume or Reject Executory Contract [11 U.S.C. § 365];
- (F) Avoid Judicial Lien and Non-Purchase Money Security Interest [11 U.S.C. § 522(F)];
- (G) Change Venue [28 U.S.C. § 1412];
- (H) Compel Turnover of Property by the Trustee [11 U.S.C. § 542];
- (I) Compensation, Application for [11 U.S.C. § 330, 331];
- (J) Convert or Dismiss Case [11 U.S.C. § 706, 707, 1112(b), 1208, 1307];
- (K) Disallow or Modify Claim [11 U.S.C. § 502(b)];
- (L) Dismissal for Failure to Pay Filing Fee [Fed. R. Bankr. P. 1006(a)];
- (M) Examination of Any Entity [Fed. R. Bankr. P. 2004];
- (N) Extend Time to Assume or Reject a Nonresidential Lease [11 U.S.C. § 365(d)(4)];
- (O) Extend Time to File Chapter 11 Plan and Disclosure Statement [11 U.S.C. § 1121(d)];
- (P) Extend Time to File Complaint [Fed. R. Bankr. P. 4004(b), 4007(c)];
- (Q) Extend Time to File Plan - Chapter 12 [11 U.S.C. § 1221];
- (R) Extend Time to Pay Filing Fee [Fed. R. Bankr. P. 1006(b)];
- (S) Hardship Discharge [11 U.S.C. § 1228(b) and 1328(b)];
- (T) Lease of Property [11 U.S.C. § 363(b)(1)];
- (U) Objection to Claimed Exemption on Schedule C [Fed. R. Bankr. P. 4003(b)];
- (V) Obtaining Credit [11 U.S.C. § 364(b), (c), (d)];
- (W) Post confirmation Modification of Chapter 12 or 13 Plans [11 U.S.C. § 1229, 1329];
- (X) Redeem Property [11 U.S.C. § 722];
- (Y) Relief from Stay [11 U.S.C. § 362(d)];
- (Z) Relief from Stay of Action Against Co-Debtor [11 U.S.C. § 1301];
- (AA) Reopening Case [Fed. R. Bankr. P. 5010];
- (BB) Sale of Property [11 U.S.C. § 363(b)(1)];
- (CC) Substitution of Counsel; and
- (DD) Use Cash Collateral [11 U.S.C. § 363(c)(2)].

- (2) **Notice of Motion.** In addition to the requirements set forth in subsection (e) above, the following items shall be incorporated in each Notice of Motion filed under the default procedure:

- (A) The title of the notice shall be “NOTICE OF MOTION UNDER DEFAULT PROCEDURE”
- (B) The following language, in bold and conspicuous print, must be included in the notice:

If an objection is filed timely, the Court will hold a hearing on the motion and any objections at: _____ *[enter time and date of hearing]* at the following location:

[enter location where hearing will be held]

If no objections are filed timely, the Court may deem the matter unopposed and grant the motion without further hearing.

- (3) **Order and Cover Sheet.** Each motion filed and served under this default procedure shall include a copy of a proposed order, and if applicable, a cover sheet completed by the movant. A separate original, proposed order shall be submitted to the Clerk along with the motions. [See also Vt.LBR 9072-1(b)]
- (g) **Consent Order.** A consent order resolving the motion may be submitted up to one (1) business day prior to the hearing date.
- (h) **Attendance at Hearings.** Any party proposing or opposing a motion or application who does not intend to actively pursue or oppose the same shall immediately notify all counsel of record, *pro se* parties, and the Clerk, so that the Court, counsel, and any *pro se* parties are not required to devote unnecessary attention to the matter or to appear in court. Unless excused by the Court, the failure of any party to attend a duly noticed hearing shall be deemed either a waiver of the pleading, objection, or motion, or a consent to the sustaining or granting of relief sought by the attending party.
- (i) **Motions to Vacate or Amend an Order.** A motion under Fed. R. Bankr. P. 9023 or 9024 (or under Fed. R. Civ. P. 59 or 60) must be filed within ten (10) days from the date of the order. Motions captioned as Motions to Reconsider shall be treated as Motions for Relief from a Judgment or Order and should set forth the grounds alleged to satisfy the criteria set forth in Fed. R. Bankr. P. 9023 or 9024 (or Fed. R. Civ. P. 59 or 60).

Vt. LBR 9013-2. BRIEFS & MEMORANDA OF LAW

- (a) **Memoranda of Law.** Motions shall be supported by a memorandum of law filed with or as a part of the motion, except as provided in subsection (b) below. Memoranda shall be succinct and shall not exceed 15 pages in length without prior leave of the Court and shall include a concise statement of each basis for the pleading with relevant citations. Memoranda opposing the motion shall be filed within ten (10) days after service of the motion or as otherwise directed by the Court and shall not exceed ten (10) pages in length, without prior leave of the Court. If time permits, reply memoranda may be filed within five (5) days after service of the memoranda opposing the motion and shall not exceed five (5) pages in length, without prior leave of the Court. Parties who cite authority not generally available on WESTLAW shall provide two copies of each to the Court. [See also Vt. LBR 7056-2 for special requirements applicable when the memorandum of law is filed in support of a motion for summary judgment].
- (b) **Motions Not Requiring Memoranda of Law.** Unless otherwise directed by the Court, memoranda of law are not required for the following motions:
 - (1) to obtain an extension of time, provided that the request is made before the expiration of the period originally prescribed by applicable rule, statute, order, or as extended by previous order;

- (2) to continue a pre-trial conference, hearing, motion, or the trial of an action;
- (3) to demand a more definite statement;
- (4) to waive the debtor's appearance at the 11 U.S.C. § 341 meeting;
- (5) to amend the petition or schedules or statements; or
- (6) to effect a substitution of parties.

Vt. LBR 9013-3. SERVICE AND CERTIFICATE OF SERVICE

- (a) **Service Generally.** The movant must file the Notice of Motion and all motion papers with the Clerk, prior to or simultaneous with the service of the motion, and file a certificate of service promptly thereafter. All parties entitled to notice under the Bankruptcy Rules must be served.
- (b) **Service of Documents filed by Electronic Means:**
 - (1) **Notice of Electronic Filing.** Whenever a pleading or other paper is filed electronically, the Electronic Case Filing System will automatically generate a "Notice of Electronic Filing" (see Appendix) by electronic means at the time of docketing.
 - (2) **Service on Registered Users Consenting to Electronic Service.** If the recipient of an electronic filing is a registered user who consents to electronic service and notification in the Electronic Case Filing System, the system's automatic transmission of the "Notice of Electronic Filing" shall be considered equivalent to service of the pleading or other paper by first class mail, postage prepaid.
 - (3) **Service on Registered Users Not Consenting to Electronic Service and All Other Entities.** All other parties including registered users not consenting to electronic service and notification, shall be served with a paper copy of the electronically filed pleading or other paper in accordance with Federal Rules of Bankruptcy Procedure and these Rules.
- (c) **Service by E-Mail.** In addition to all registered users who consent to electronic service and notification, any entity may register with the Clerk to accept service and notification of pleadings and papers by e-mail where the pleading or other paper is transmitted as an attachment. Transmission of the e-mail with attachments shall be considered equivalent to service of the pleading or other paper by first class mail, postage prepaid.
- (d) **Consenting Persons List Regarding E-Mail Service.** The Clerk shall maintain a list of all entities and attorneys who will accept service by e-mail and their e-mail addresses. This list will consist of all registered users consenting to electronic service and notification, and any other entity who has registered with the Clerk. This information will also be available at the Court's web site at <http://www.vtb.uscourts.gov>

Vt. LBR 9015-1. JURY TRIAL

- (a) **Applicability of Certain Federal Rules of Civil Procedure.** Fed. R. Civ. P. 38, 39, 47-51, and 81(c), insofar as they apply to jury trials, apply in all cases and proceedings in this Court, except that a demand made under Fed. R. Civ. P. 38(b) shall be filed in accordance with Fed. R. Bankr. P. 5005.
- (b) **Consent to Have Jury Trial Conducted by Bankruptcy Court.** If the right to jury trial applies and a timely demand has been filed under Fed. R. Civ. P. 38(b), the parties may consent to have a jury trial conducted by the Bankruptcy Court under 28 U.S.C. § 157(e). Parties must jointly or separately file a statement of consent no later than the first pre-trial conference in an adversary proceeding and in all other matters and proceedings upon reasonable demand. Failure to affirmatively file a consent to a jury trial shall be deemed to be a lack of consent.
- (c) ***Voir Dire.*** Unless otherwise ordered, interrogation of prospective jurors on *voir dire* examination shall be conducted by the Court. The Court, in its discretion, may permit questions to be submitted in writing in advance of jury selection or orally at the side of the bar during *voir dire*.
- (d) **Time for Filing a Demand for Jury Trial After Removal.** If at the time of removal all necessary pleadings have been served, a party entitled to a jury trial must demand one within 20 days after the Notice of Removal is filed; otherwise, within 20 days after service of the notice of filing of the Notice of Removal on the party entitled to a jury trial. A party who has expressly made demand for trial by jury prior to removal, in accordance with federal or state law, need not make a demand after removal. If applicable state law in the court from which the case is removed does not require the parties to make express demands for trial by jury, the parties must make demands after removal, in accordance with this paragraph. The Court direct the demand be made within a specific timeframe *sua sponte* or at the request of any party. The failure of a party to make a jury demand as directed under this sub-paragraph constitutes a waiver of trial by jury.

Vt. LBR 9016-1. SUBPOENAS

Reserved

Vt. LBR 9016-2. WITNESSES

Reserved

Vt. LBR 9019-1. SETTLEMENTS & AGREED ORDERS

Reserved

Vt. LBR 9019-2. ALTERNATIVE DISPUTE RESOLUTION (ADR)

- (a) **Generally.** The Court encourages the use of Alternative Dispute Resolution (“ADR”) where the parties believe the issues to be amenable to ADR. The Court may direct the use of ADR in cases it deems to be well-suited to non-judicial resolution. The courtroom deputy will coordinate ADR in bankruptcy matters.

- (b) **The Early Neutral Evaluation Process and Goals.** The provisions of the District Court Local Rules regarding Early Neutral Evaluation (“ENE”) shall apply in Bankruptcy Court, subject to modifications necessary to ensure a specialized panel and requirements appropriate to bankruptcy issues. Upon consent of all parties, or upon order of the Court, an adversary proceeding or contested matter will be submitted to ENE and the deadline for completing the ENE process shall be set forth in the Scheduling Order. The courtroom deputy will coordinate ENE in bankruptcy matters.

Vt. LBR 9020-1. CONTEMPT

Reserved

Vt. LBR 9021-1. JUDGMENTS & ORDERS - ENTRY OF

Copies of all memoranda of decision and of all judgments and orders entered after evidentiary hearings shall be posted on the Court’s website at <http://www.vtb.uscourts.gov> . These documents are available to the public and may be searched by word, name or statute.

Vt. LBR 9021-2. ORDERS - EFFECTIVE DATE

Reserved

Vt. LBR 9022-1. JUDGMENTS & ORDERS - NOTICE OF

All orders, decrees, judgments, and proceedings of the Court, if filed electronically, will be filed in accordance with these rules, which will constitute entry on the docket kept by the Clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the Court or court personnel. [See also Vt. LBR 9036-1(a).]

Vt. LBR 9027-1. REMOVAL/REMAND

- (a) **Notice.** The party filing a Notice of Removal shall give written Notice of Removal to all adverse parties and shall file a copy of the application with the Clerk of the court from which the civil action or proceeding was removed. This notice shall effect the removal, and the parties shall proceed no further in that court unless and until the case is remanded or the Bankruptcy Court orders otherwise.
- (b) **Procedure after Removal.** The party filing the removal shall file or cause to be filed with the Bankruptcy Clerk certified copies of all records and proceedings in the court from which the case was removed. This filing shall be at the party’s expense and made within ten (10) days after the filing of the Notice of Removal.
- (c) **Remand.** At any time before final judgment it appears that the civil action or proceeding was removed improvidently or without jurisdiction, the Bankruptcy Court shall remand the case and may order the payment of just costs. A certified copy of the order of remand shall be mailed by the Bankruptcy Clerk to the Clerk of the court from which the civil action or proceeding was removed, and that court may thereupon proceed with the case.

Vt. LBR 9029-1. LOCAL RULES - GENERAL

- (a) **Scope and Title.** These local rules shall govern procedure in the United States Bankruptcy Court for the District of Vermont (“The Court”). These rules shall be cited as “Vermont Local Bankruptcy Rules” or “Vt. LBR”, and the forms shall be known as the “Vermont Local Bankruptcy Forms” or “Vt.LBF”. The Vt.LBR supplement the Federal Rules of Bankruptcy Procedure (referred to in these rules as the Fed. R. Bankr. P.). Cases, contested matters, and adversary proceedings transferred or withdrawn to the United States District Court for the District of Vermont shall be governed, as applicable, by the Local Rules of Procedure for the United States District Court for the District of Vermont.
- (b) **Making and Amending these Rules.** The Vt. LBR may be made and amended by action of the Judges of the United States District Court for the District of Vermont, pursuant to Fed. R. Bankr. P. 9029 and by this Court, pursuant to the order entitled Authority for Making and Amending Local Rules entered on March 27, 2001.
- (c) **Matters Not Covered by Rules.**
 - (1) **Consistent Practice.** In any matter not covered by these rules the Court may regulate practice in any manner not inconsistent with the Federal Rules of Bankruptcy Procedure and the Federal Rules of Civil Procedure.
 - (2) **Suspension of Rules.** The Court, upon its own motion or the motion of any party, may change or dispense with any of these rules in the interests of justice.
 - (3) **Good Cause.** A motion for waiver of these rules may be approved if the movant demonstrates good cause for a waiver.

Vt. LBR 9029-2. LOCAL RULES - GENERAL ORDERS

General Orders may be issued by the Court to keep these rules current. Copies of all General Orders may be obtained from the Clerk's Office or found on the Court's website at <http://www.vtb.uscourts.gov>.

Vt. LBR 9029-3. LOCAL RULES - DISTRICT COURT

Reserved

Vt. LBR 9035-1. BANKRUPTCY ADMINISTRATORS

Reserved

Vt. LBR 9036-1. NOTICE BY ELECTRONIC TRANSMISSION

- (a) **Generally.** Pursuant to Fed. R. Bankr. P. 9036 and Vt. LBR 9013-3, the Court may direct notice by electronic transmission if the entity entitled to receive the bankruptcy notice requests in writing that the notice be transmitted electronically. This written request requirement may be fulfilled through the execution of an electronic noticing agreement. This is in addition to and distinct from the consent document executed for the CM/ECF electronic service.

- (b) **Noticing Agreements.** The Court will provide noticing agreements through the judiciary's Bankruptcy Noticing Center to any entity requesting this service. The terms and procedures for electronic noticing are detailed in the Court's noticing agreement provided by the Clerk and also available on the Court's website at <http://www.vtb.uscourts.gov>.
- (c) **Electronic Notice of Court Orders and Judgments.** Immediately upon the entry of an order or judgment, the Clerk will transmit to a party registered to use the Electronic Case Filing System in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The Clerk must give notice in paper form to any person who has not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure and Vt. LBR 9013-3(b)(2).

Vt. LBR 9070-1. EXHIBITS - PRODUCTION RETENTION AND CUSTODY OF

- (a) **Marking of Exhibits.** In an adversary proceeding or a contested matter, the exhibits shall be marked by counsel or the parties prior to trial or hearing. If more than ten (10) exhibits are to be introduced, each exhibit must be labeled, tabbed, and placed in a file folder. An index to all exhibits must be produced. When practical, all documentary exhibits shall be prepared in sufficient quantity to provide copies for the witness, the Court, each opposing counsel, and the examining attorney.
- (b) **Retention of Exhibits by Attorneys.** Unless the Court directs otherwise, original exhibits shall not be filed with the Clerk but rather shall be retained in the custody of the respective attorneys or persons who produced them in court. The Court will retain its copy if decision is reserved.
- (c) **Removal of Exhibits from Court.** Exhibits that have been filed with the Clerk shall be removed by the party responsible for the exhibits (i) if no appeal has been taken, at the expiration of the time for taking an appeal, or (ii) if an appeal has been taken, within 30 days after the record on appeal has been returned to the Clerk. Parties failing to comply with this rule shall be notified by the Clerk to remove their exhibit, and, upon their failure to do so within 30 days of notification, the Clerk may dispose of the exhibits.
- (d) **Appeal.** If a decision or order is appealed, all exhibits necessary to perfect the appeal shall be made available from the parties for inclusion in the record on appeal.
- (e) **Photocopy Size.** All photocopies of original exhibits that are submitted as part of a pleading filed in the Clerk's Office, if not filed electronically, shall be on 8½" x 11" paper.
- (f) **Electronic Filing of Attachments and Exhibits.** A party registered to use the Electronic Case Filing System must submit in electronic form the documents referenced as exhibits or attachments, unless the Court permits the documents to be filed in the conventional manner. A party registered to use the Electronic Case Filing System must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. A party registered to use the Electronic Case Filing System who files excerpts of documents as exhibits or attachments under this rule does so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete

document that they believe are germane. This rule applies to proofs of claims as well as other pleadings and papers.

Vt. LBR 9071-1. STIPULATIONS

Reserved

Vt. LBR 9072-1. ORDERS - PROPOSED

- (a) **When Required.** All requests for relief, including applications and motions, except pleadings initiating an adversary proceeding, shall be accompanied by a proposed order.
- (b) **Submission of Orders.** Proposed orders must be separate documents, i.e., not attached to or incorporated into a motion or application, and must be accompanied by a service list. A proposed order accompanying a motion that is filed electronically shall be filed as set forth in this rule. The Court may request that certain proposed orders also be transmitted to the courtroom deputy via e-mail but a duplicate proposed order should not be transmitted to the courtroom deputy unless specifically requested. The Clerk will arrange for service of orders, after entry, through the Bankruptcy Noticing Center to all parties listed on the service list.
- (c) **Settled Orders.** Parties may request that proposed orders submitted for signature be settled with the Clerk for a specified period of time. The order must clearly indicate the date when the Court may sign it if there is no objection. Any party objecting to a settled order must submit an objection in writing, with a certificate of service, within the time period designated. The Court may resolve any filed objections to a settled order without a hearing.
- (d) **Format of Signature Line on Proposed Orders.** The Court will not sign proposed orders where the Court's date of entry and signature line are situated on a separate page. There must be a continuity of the language of the proposed order from the previous page contained on the signature page.
- (e) **Lift Stay Relief.** [See Vt. LBR 4001-1(e).]

Vt. LBR 9073-1. HEARINGS

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Vt. LBR 9074-1. TELEPHONE CONFERENCES

Reserved

Vt. LBR 9075-1. EMERGENCY ORDERS

Reserved

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re: _____

Chapter XX Case
XX-XXXXX-cab

Debtor(s)

**DECLARATION RE: ELECTRONIC FILING
(Declaration REF)**

PART 1 - Declaration of Petitioner:

I [We] _____ and _____, the undersigned debtor(s), corporate officer or partnership member, hereby declare under penalty of perjury that the information I have given my attorney and the information provided in the electronically filed petition, statements and schedules, or amendments thereof, is true and correct. I understand that this DECLARATION RE: ELECTRONIC FILING is to be filed with the Clerk after any of the above mentioned documents (petition, statements, schedules, or amendments thereof) have been filed electronically but, in no event, no later than 3 business days after any of these documents have been filed.

☐ [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11 United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter specified in the petition.

☐ [If petitioner is a corporation, partnership or limited liability entity] I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter specified in this petition.

I understand that failure to file the signed original of this DECLARATION is grounds for dismissal of my case pursuant to 11 U. S. C. § 707(a)(3) without further notice.

Dated: _____

Authorized Corporate Officer / Partnership Member

Signed: _____
Debtor

(If joint case, both spouses must sign)

Joint Debtor

Part II - Declaration of Attorney:

I declare under penalty of perjury that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances that the above debtor's[s'] petition, schedules, statements (1) is not being presented for any improper purpose; that the claims, defenses, and other legal contentions therein are warranted and are not frivolous; that the allegations and other factual contentions have, or will have, evidentiary support; and the denials of factual contentions are warranted. I further certify that the debtor(s) signed this Declaration after I submitted the petition, schedules and statements or amendments thereof and after I gave the debtor(s) a copy of the electronically filed document identified on the attached **Notice of Electronic Filing** from the Electronic Case Filing system and believe that the electronic document fully and accurately reflects the information given to me by the debtor[s]. I have complied with all other Electronic Filing requirements. I have informed the individual petitioner that [he and/ or she] may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, and have explained the relief available under each such chapter. This declaration is based upon all information of which I have knowledge.

DATED: _____

Attorney for Debtor(s)

SAMPLE OF
NOTICE OF ELECTRONIC FILING
GENERATED BY ELECTRONIC CASE FILING SYSTEM WHEN A DOCUMENT IS FILED

00-00000-CAB Notice of Electronic Filing

The following transaction was received from Jim C. Doe on 01/ 01/ 2001 at 12: 01 AM

Case Name: Debtor name

Case Number: 00-00000-CAB

Document Number: 14

Docket Text:

MOTION FOR RELIEF FROM STAY filed by Jim C. Doe of Creditors law firm on behalf of Creditor. (Doe, Jim C.)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: x:/ xxxx/ 12345. pdf

Electronic document Stamp:

[STAMP VTBStamp_ ID= 1111111111[Date= 01/ 01/ 2001][FileNumber= 11111- 1][other codes]]

00-00000-CAB Notice will be electronically mailed to:

Jim C. Doe jdoe@ creditors.com

Julie W. Doe jdoe@ lawfirm.com

00-00000-CAB The person(s) listed below could not be notified electronically because that person's e-notification service is not activated:

John Doe
123 Main St.
Nowhere, USA

Jane Doe
456 Main St.
Somewhere, USA

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